CHERCHEURS DE DIEUX
DANS L'ESPACE PUBLIC

FRONTIER RELIGIONS
IN PUBLIC SPACE

Sous la direction de/
Edited by

Pauline Côté

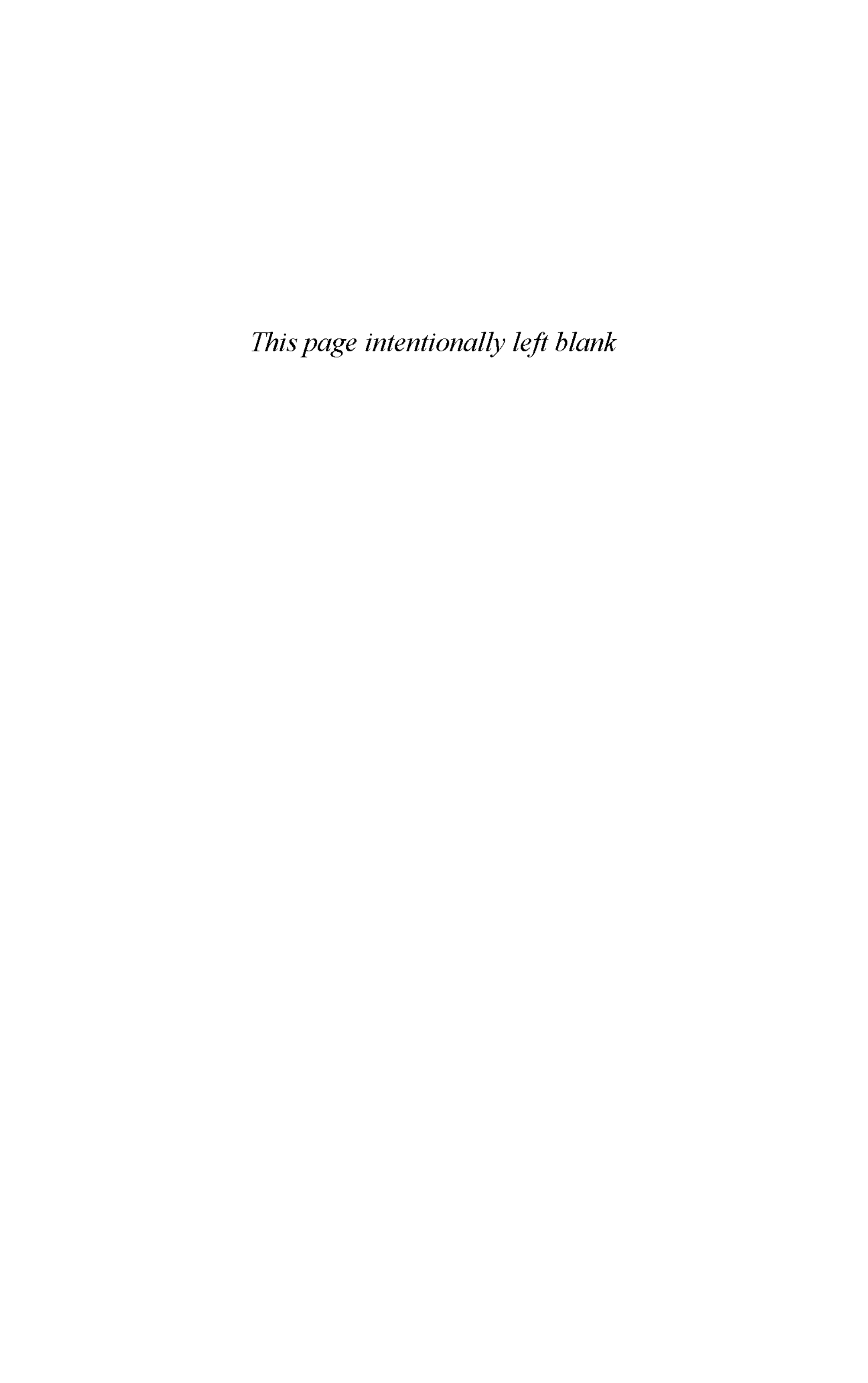


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Avec la participation de / Contributors

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Jean Baubérot
James A. Beckford
Alain Bouchard
Roland Campiche
André Carbonneau
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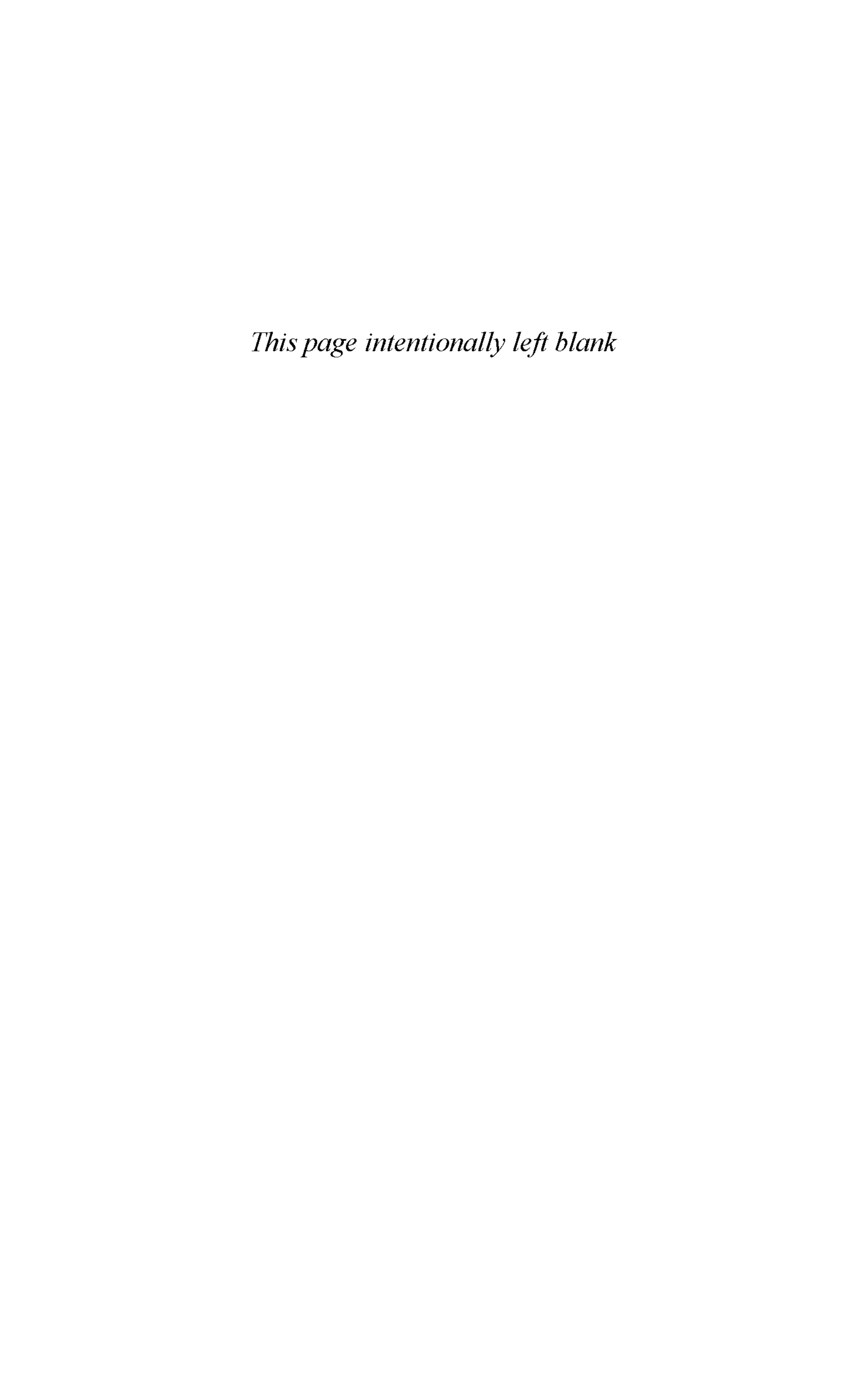
Le 25 juillet 1998, à l'initiative du Groupe de Recherches en Sciences de la Religion de l'Université Laval et à l'occasion du XIV[e] congrès mondial de Sociologie, se tenait à l'Université du Québec à Montréal un séminaire international d'une journée consacré au thème de l'innovation religieuse dans l'espace public. Une dizaine de chercheurs et de professionnels, ayant tous une connaissance directe du phénomène de même qu'une longue expérience de sa diversité et de sa complexité, ont répondu à l'invitation de réfléchir à la genèse de formes inédites d'être religieux dans le monde contemporain. Le présent ouvrage porte le fruit de leurs réflexions.

Un double impératif, présence et actualité de l'action religieuse émergente, guide nos travaux. Présence d'une quête de sens aux proportions étonnantes, d'une aire de conversation en religion généralisée à l'espace planétaire, mais le plus souvent pensée dans les limites de tribulations personnelles et communautaires. Actualité médiatisée du suicide-homicide à l'intérieur de certains groupements : Waco, Ordre du Temple Solaire, Porte du Ciel. Actualisations, dans l'espace commun, de visées à changer la vie ou à changer de vie.

Originale, insolite, renaissante, l'action religieuse émergente bouscule les habitudes, ébranle les certitudes, construit ici, maintenant, l'autre monde. Peut-on courir le risque ? Voilà que la question se pose et se résout en rumeurs publiques, poursuites judiciaires et tensions scolaires, lesquelles mettent à nu des mécanismes inédits d'institutionnalisation de l'expérience religieuse en modernité : groupes tactiques d'intervention, cellules gouvernementales de crise, commissions parlementaires, cercles technocratiques précurseurs d'ingénierie pluraliste. Sur fonds de traditions religieuses, nationales ou républicaines avec la perspective de la menace sectaire, s'esquisse sous nos yeux un religieux correct et acceptable.

Comment est-il possible aujourd'hui d'inscrire l'exceptionnel, l'originel, le merveilleux, le transcendant religieux dans le quotidien ? Et dans quelle mesure, paradoxalement, les gestionnaires de dieux ne repoussent-ils pas toujours plus loin la frontière religieuse ?

PAULINE CÔTÉ



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PUBLIC SPACE-BUILDING IN RELIGION : A MULTIDIMENSIONAL PHENOMENON

Pauline Côté

On July 25th 1998, the book contributors met at the University of Quebec in Montreal for a one-day seminar on religious innovation called at the initiative of Laval University's "Groupe de recherche en sciences de la religion"[1]. Offering some perspective on the multidimensionality of the phenomenon was the objective of gathering these experts and professionals, which was made possible due to the upcoming World congress of sociology.

Coming out of the various papers, first, are contrasted images on religious innovation suggested by the ebbs and flows of religious creativity, the directionalities of change, and the streamlinings of regulation. Pictures emerge of the possibilities and limits, opportunities and constraints of religious innovation (Dawson, Palmer). Images of religious pluralism, and others of media controversy, religious 'entrenchement', and political debates also take form. (Baubérot, Campiche, Bouchard, Introvigne). And one envisions ways in which religious and legal creativity is fostered by judicial ordeals, as well as exertions of social control through judicial discretion and enforcement of normative values. (Wah, Carbonneau, Richardson).

Some inherent logic, though, govern these contrasted images. All contributors have extensive knowledge in the field of religion, and share a dynamic view of what might be termed "Public Space- Building". This expression has been elected, most of all, to denote an empirical acception of the public sphere[2]. In addition, the religious innovators' attempts to make inroads in publics, and to 'make room' for themselves in the religious sector, as well convey the image of space, open and disputed space, more than the image of some discrete sphere. Hence, reference to public space building. Finally, public authorities' involvement in the

process bear some analogy to "Nation State Building". Public authorities, be they administrative, judicial, legislative, ultimately decide what will be deemed Public and private, Sacred, religious, secular, sectarian, and will thus be allowed in different sectors of activity on state territory.

But how does Public Space-Building occur? While 'Exploring the Religious Frontier' in Part one of this book, readers are reminded first of the sheer diversity and vitality of contemporary religious experiences. New modes of communication help drive religious discourse into Cyberspace, but can change consciousness and culture in the process. In systematic fashion, Lorne Dawson discusses the promises and perils of the new public space opened by the Internet. He cautions that the overall impact is hard to see clearly, not only because the domain is relatively new and so fast-changing, but also because hard data is still missing "...about such crucial issues as the creation and maintenance of communities in cyberspace or the social and psychological implications of prolonged exposure to life in cyberspace." What already emerges though, is that "The Internet will be a crucial forum for the promotion of religious change, innovation, conflict, and dialogue..."

These are precisely the forms of social exchange in public space that could benefit from the reflection, if not the active input, of sociologists of religion. According to Eileen Barker: " Frontier religions are, by definition, those that are breaking new ground and they tend, almost by definition, to consist of first-generation converts who have chosen to move on from the old beliefs and practices of their parents and the rest of society". This points to the religious frontier as a source of fear, anxiety and suspicion in general publics. Such initiative as INFORM (Information Network Focus on Religious Movements) has been taken by the author and partners in academic, religion, government, together with parents and other concerned parties, to provide accessible information on what occur in new religions. As well, the religious frontier generates an 'uncertainty zone' for public authorities, soon identified as 'policy gap' by proactive regulators. In the midst of controversy, Barker argues in favour of "...as objective and contextualized an account of the movements as possible", whereas social scientists can best play their professional part in public debate. To her, this means being accurate, "without bias on either side", and, most of all, put accurate facts in "comparative context so that visibility is not confused with frequency or typicality". Indeed, this is exactly what happens with media regulation of religious innovation, which make losers of circumlocuted (God forbid, circumvoluted) social scientists!

But sociologists of religion, first of all, need to recapture the commonalities between 'cults' and 'normal religion' beyond social categorization of new and minority religions. The barrier separating these religious phenomena is an artificial one, Beckford states, one that exaggerates deviance as well as normality in all expressions of religion. "There is actually a continuum between the problematic and the unproblematic aspects of all religious collectivities". While discussing what would make 'cults' appear to be 'normal', Beckford offers interesting directions for a change in focus aside from beliefs contents. Pragmatic, policy necessities may be the external criteria implicitely or explicitely applied : "...[T]oleration is extended these days to NRMs which satisfy various non-religious conditions imposed by state authorities".

Of all dimensions of Public Space-Building, the most manifest is undoubtedly the one linked to public debate. In Part two, readers are invited to cover the ground, if not make the journey, from 'Personal Experience to Public Controversy'. Roland Campiche first provides some comprehensive perspective on media construction of religious phenomena, conceived as sociocultural regulation. Beyond the "lieux communs" on media coverage, he initially seeks to circumscribe its singular impact on religions: for example, extending to religions a social necessity for easily identifiable leadership, and enforcing on them the need to generate events, a theme later on illustrated in Palmer's contribution. Campiche then insists on a more nuanced analysis of media regulation, and provides a few assumptions for better grounded research.There is no central regulator in the field of religion, it is assumed. Moreover, sociocultural impact of media regulation varies, with greater impact on sects than on established religions as way of general rule. Media also play a paradoxical role with relation to religion, coming to enforce some "'religious correctness' in order to police a field more or less voluntarily deserted by its traditional actors." And yet, Campiche concludes, the question of the cognitive influence exerted by the media on public perceptions of religion remains unanswered.

Better asserted is the impact media coverage of new religions has on public controversy, even on public policy. With the precision and clarity brought by acute and extensive knowledge of moral panics functioning, Massimo Introvigne shows how "public order" doctrines, and reference to mental manipulation, legitimize restrictions to religious liberties throughout contemporary Europe. Policy considerations are then provided by Introvigne with respect to the way public authorities could mediate religious controversies, such as criteria in the choice of narratives.

Religious liberty finds limits in the fundamental necessities of the common good but, he warns: "La liberté devient un fantôme lorsque, dans le conflit entre les récits concernant les mouvements religieux anciens et nouveaux, les autorités publiques décident de faire leurs les récits de type hostile".

Those hostile narratives often feed "urban legends" on new religions, according to A. Bouchard. Special focus on media treatment of a group suicide of five members of the Order of the Solar Temple in St-Casimir (Quebec), in 1997, allow the author to document the perception of sects as a non specific, yet insidious threat. More disturbing than the occurrence of these new urban legends, still, is their origin in what the author calls "a culture of denouncement", everywhere at play in the West with the politics of apostasy.

In "Ampushing the Apocalypse : Sects, Suicide and Stigma in the Media", Susan Palmer draws attention to the "complex symbiotic relationships between prophetic NRMs, the media and the anticult movement, and describe [s] some of the mutually exploitative 'deals' that have been forged between prophets and journalists...". Of special interest are the unintended consequences sometimes fostered by media publicity: stimulation and validation of millenarian excitement, furthering agenda of media competent Prophets, even media intimidation by criminalized groups such as Aum Shinrikyo.

The most critical dimension of Public Space-Building, so far as the ever fundamental question of *jurisdiction* is concerned, is examined in a last section entitled: "Sacred Space, Contested Boundaries". How do existing patterns of regulation withstand the "creative destruction"[3] of religious innovation and the fury of public controversy? First of all, what role is imparted to law? What structural and historical variables might be at play in comparative perspective? With a classical exercise in theory-building, James Richardson offers useful clues in trying to solve the genuine intellectual enigma of social control of religious innovation. He first discusses the interplay of structural variables such as pervasiveness of the law, autonomy of the legal system, access to legal system, religious diversity, and the way they relate to cultural variables such as the degree of religious freedom. Because religious diversity itself is such an historical force, he predicts that public resistance to it may mandate increasing resource allocation in the future, just to suppress those non state-sanctioned religious practices. This spiral is particularly visible in the case of former communist countries, and might yet be apparent in the milder forms of the "structured pluralism" present in Western Europe, where official production of lists evidences the development of a "hierarchy of

religions". Richardson then illustrates internal operation of these variables with reference to evidentiary issues in the judicial system as they arise with the legal treatment of controversial groups. Judicial discretion in the admission of evidence, as well as the selective use of testimonies, are exemplified with reference to 'cult-brainwashing' cases.

Another useful perspective on the European situation, especially on the French case, is offered by Jean Baubérot. In a perceptive analysis of differing, when not divergent public "philosophies" on the question of religious pluralism, Baubérot helps understand what may be termed a "structural adaptation" crisis of existing patterns of regulation in France, instead of a crisis of the pluralist regime *per se*[4]. French history witness to at least two distinct worldviews on the matter : one being "liberté de conscience", which may translate into "freedom of religion", and the other, "liberté de penser", which may translate into "emancipation from religion through the use of reason and science". According to Baubérot, the actual but coincidental prevalence of the latter, in the form of some "established laïcité", may be in affinity with resistance to structural pluralism in France (witness, the growth of Islam) but, most of all, with the development of a "pensée unique", on religion as well as on other subjects, at odds with the critical use of reason characteristic of the "laïque culture".

Some actual 'confluence of interests' on the part of public regulators, concerned publics and anti-cult activists explains the current wide consensus on "cult bashing" in Europe. Public initiatives as they have developed over the last few years show that public regulation activism responds to systemic, but as well to incremental processes. The same may be thought of Public Space-Building in religion, usually related to non intervention and neutrality principles of public authorities, but as frequently found in direct relation to minority religions' legal activism. One is reminded here of Max Weber's technical acception of the term "sect" as a community of religiously qualified people, some of whom in necessity of defending freedom of conscience as a religious imperative[5]. Jehovah's Witnesses form a religious group which has exemplified this incremental process in the last decades. Some of these legal battles are here recounted by two Witness attorneys, A. Carbonneau and C. Wah. In the first instance, Carbonneau documents an uphill battle in Quebec that actually opened a religious public space in this Canadian province. Today, Carbonneau and Wah argue, religious and public territories are still disputed in other highly charged and publicised court battles such as blood transfusion and child custody cases. General publics would no doubt agree that notions such as "the Best Interest of the Child" need to be correctly

asserted in courts, with proper fact finding and competent evaluation. Yet, in Wah's terms: "Despite the lip service paid to tolerance and mutual respect, the plain truth is that many new and minority religions with their own holidays or religious practices may be considered as different or non-traditional, and are therefore, presumed to be harmful to children. Some custody evaluators and trial judges feel that they can no longer take a neutral or impartial position on questions of religious training when religious training is at the heart of the dispute."

The specter of the "Battle of the gods" envisioned by Weber may still be looming, but only as long as a "conviction ethic" in reasoning is privileged over a "consequential ethic". In a concluding chapter, I offer some speculation on Public Space-Building in the context of globalization. With reference to regimes of religious regulation, an attempt is made to identify some key factors in religious public space expansion and contraction. Expansion, no doubt, is favoured by peaceful coexistence of religions and tolerance, generalized exchange brought by civil liberties, the growth of a religious market, all features of the pluralization process in religion. But there is also evidence on the world stage today of a co-occurring "authentification of religion" process, which is particularly visible in the public construction of a religious sector. Public sector building of this type emerges and prospers, it seems, at the interface of Welfare States and Nation States prerogatives. The "status politics of religion" it induces generally result in public space contraction for religions, more pronounced in the case of frontier religions, as is illustrated with reference to the sect controversy in Europe. But overall, the complexity of Public Space-Building in religion makes for fragile certainties, unforeseen developments, and many challenges still for analysts.

NOTES

[1]. Under the auspices of the Department of Religious Studies. The editor wishes to express her gratitude to the Department chair, Marie-Andrée Roy.

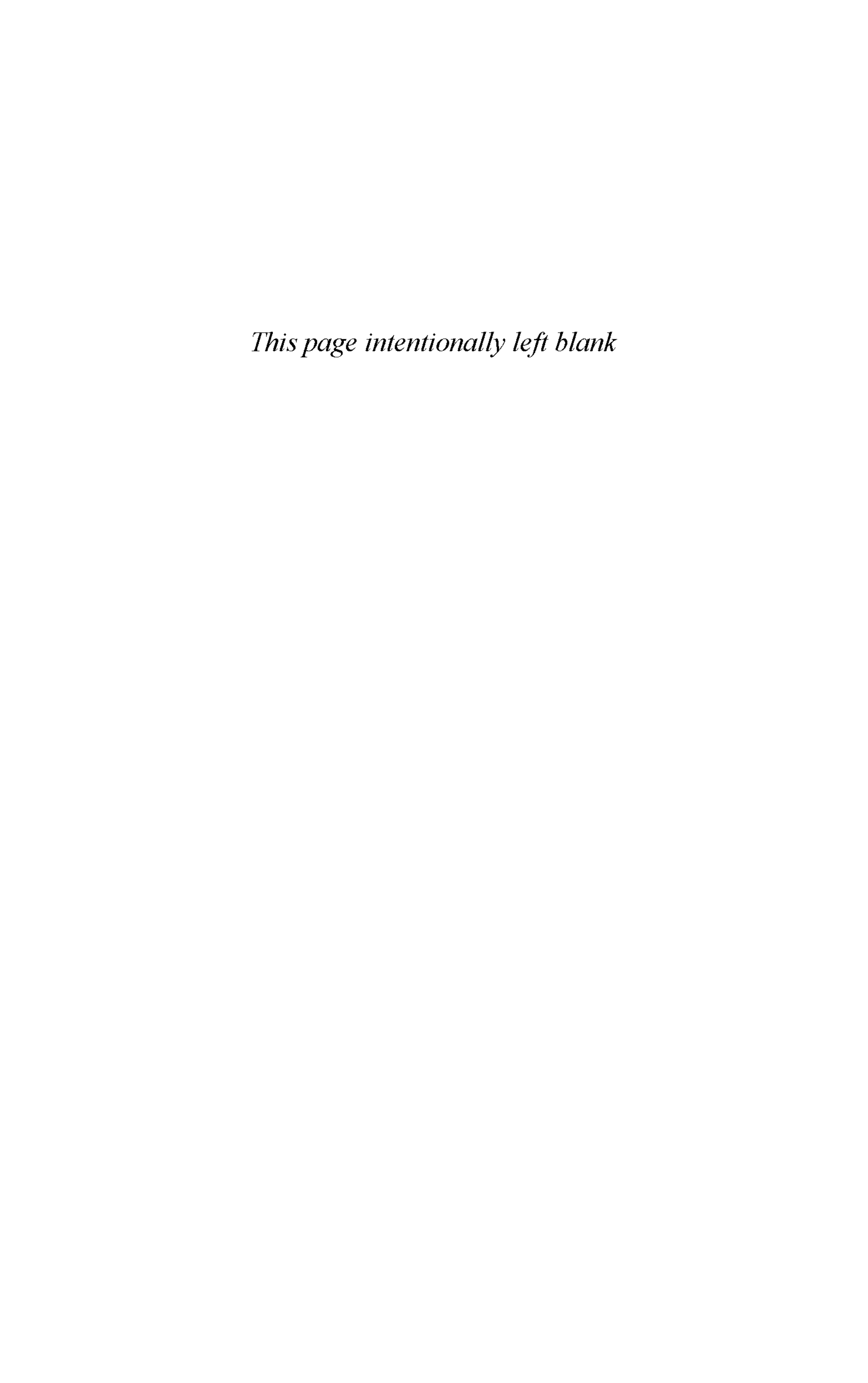
Other participants in the 'Groupe' and the seminar were: Raymond Lemieux, from the Faculty of Theology and Sciences of Religion, who made a presentation on religious innovation, and graduate students and researchers: Sylvain Nadeau, Nadia Gilbert, Martin Grégoire, Julie Tracol, Iolande Cadrin Rossignol. In addition to their suggestions and comments, the editor greatly benefited from Sylvain Nadeau and Alexandru Gurau's assistance in editing this collection.

[2]. As opposed to a metaphorical, mythical, or idealized acception . Cf. Craig J. Calhoun, ed., *Habermas and the Public Sphere*, Cambridge, MIT Press, 1992. For a review of critiques addressed to Habermas' notion, as well as an original perspective of its potential in light of communication technology advances, see Radu Dobrescu, "Une théorie unifiée de l'espace-temps public?", Departement of Political Science, Laval University, 2001 (rbdxh@lycos.com).

[3]. One expression used by J.A. Schumpeter in relation to entrepreneurial capitalism.

[4]. What political analysts would refer to as **crisis in** the regime, as opposed to **crisis on** the pluralist regime of religious regulation.

[5]. *Sociologie des religions* (textes réunis et traduits par Jean-Pierre Grossein, Introduction de Jean-Claude Passeron), Paris, NRF Gallimard, 1996, 324-25.

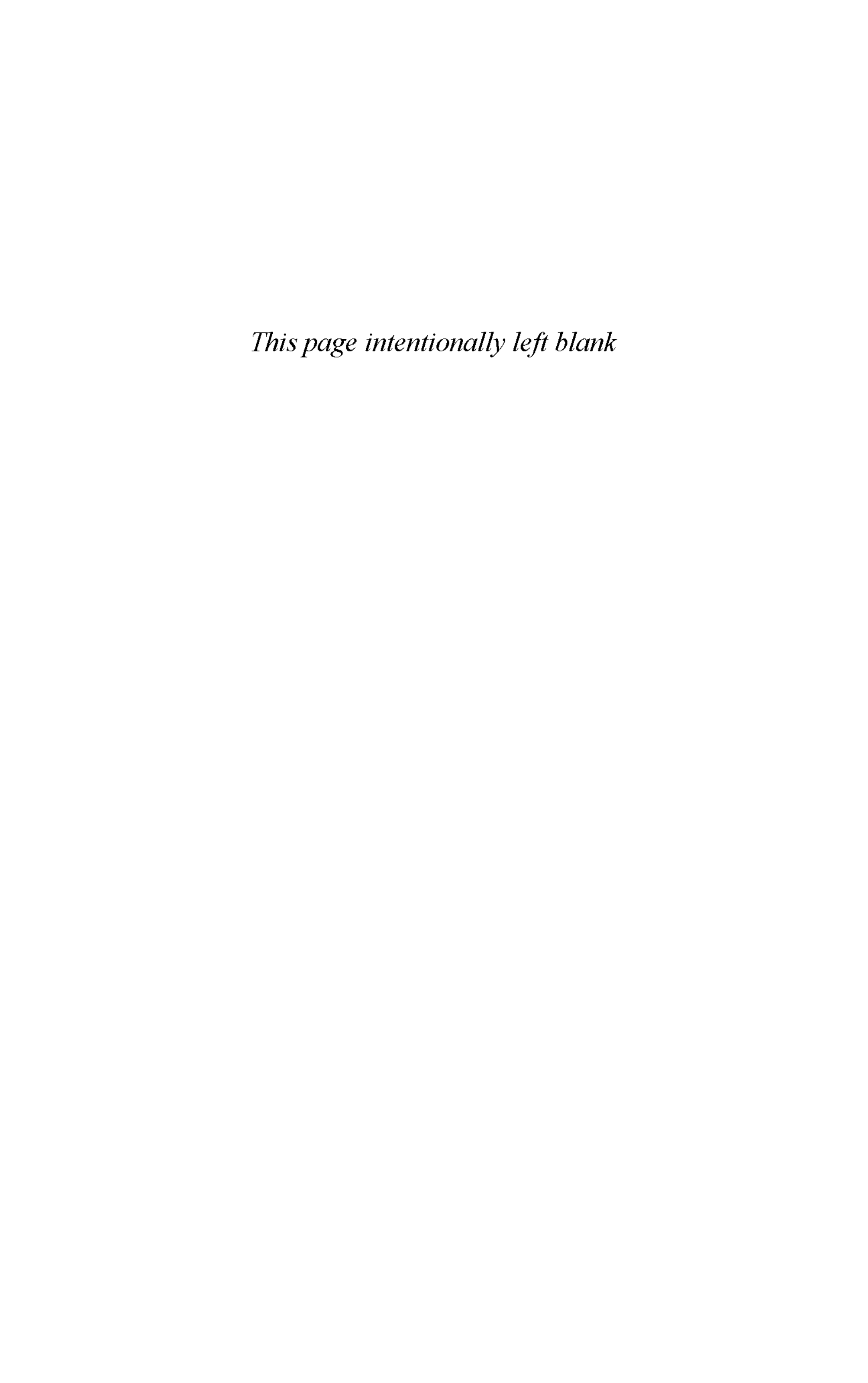


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PREMIÈRE PARTIE / PART I

DE L'ÉTRANGE AU FAMILIER EN RELIGION

EXPLORING THE RELIGIOUS FRONTIER



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THE CONTINUUM BETWEEN "CULTS" AND "NORMAL" RELIGION[1]

James A. Beckford

ABSTRACT

The central theme of this paper is that an artificially strong barrier has been erected between new religious movements (or "cults") and other religious phenomena. This barrier exaggerates the movements' distinctiveness, if not pathology. Of course, case studies of separate movements have revealed interesting details about them; and comparative studies have identified some common characteristics and types. But is is useful to remind ourselves that, in some respects, new religious movements are subject to the same socio-cultural forces as are other religious phenomena. In particular, the contested boundaries between (a) religion and non-religion and (b) "normal" and "deviant" religion affect not only new religious movements but also "mainstream" expressions of religion. A better contextualisation of new religious movements might help to combat misplaced anxiety about them and to identify the grounds for justifiable concerns about them.

INTRODUCTION

While dramatic and tragic events have been unfolding around the world in connection with religious movements as varied as Aum Shinrykyo, the Branch Davidians, the solar Temple and Heaven's Gate, "shadow drama" has been taking place in various countries of Western and Eastern Europe. I am referring to the succession of public inquiries and official reports on religious sects or "cults" which have emerged from France, Germany, Spain, Belgium, and Russia in recent years. There have also been debates in the European Parliament. Some of these reports have

recommended draconian measures to deal with what is often perceived as the serious problem of "so-called sects", "destructive cults" or "psychogroups". Levels of anxiety, at least among some citizens and public officials, are high — even about groups as old and well known as the Jehovah's Witnesses and the Mormons.

Public concern about the gas attacks carried out in Japan and the suicides in other places in fully understandable. The case of the Branch Davidians is more complicated because public concern is about the violent actions taken by the US authorities as well as about the reports of authoritarianism, exploitation and sexual abuse in the group. What I find more difficult to understand is the virtually universal failure to see that these abuses occur in many religious organisations: not just the stigmatised minority movements. Evidence has come to light in recent years of, for example :

Systematic sexual abuse of children in the care of Catholic priests ;
Brutality in residential institutions for young people run by the Catholic church in various countries ;
Catholic church policies for transporting young children from Britain and Ireland to Australia under the bogus pretext that they were orphans ;
Massive financial irregularities in the catholic Archdiocese of Chicago ;
Clergy malfeasance of various kinds in many American churches (Shupe, 1995) ;
Sexual improprieties among Methodist clergy in the UK ;
Financial irregularities in certain Pentecostal churches in the UK ;
Racism in the Church of England ;
The exploitation of women in many Christian churches ;
Collusion between church officials and some of the world's most brutal regimes.

This list of examples of scandals, abuses and problems in mainstream, supposedly respectable Christian churches is far from exhaustive, but it is intended merely to draw attention to the disparity between the levels of public awareness and anxiety about problems in well established religious organisations and the levels of concern about so-called "cults". Moreover, there are few genuine *controversies* about mainstream churches: merely a

perception of scattered problems associated with particular individuals. As a category, churches are not perceived to give rise to difficult moral or legal dilemmas. Indeed, William Bainbridge (1997: 24) refers to them as "conventional religious organizations". Yet, in my view, this categorical distinction between them and so-called cults is exaggerated. There is actually a continuum between the problematic and the unproblematic aspects of all religious collectivities.

From a sociological point of view, it makes very little difference whether the abuses are accidental or consequential on doctrines or ideology.

Admittedly, the most spectacular episodes of violence and collective suicide have occurred in so-called cultic groups, but public animosity against the category of "cult" was strong even before the destruction of the People's Temple at Jonestown, Guyana in 1978. In any case, that particular episode and the armed assault on the Branch Davidian compound in Waco, Texas in 1993 should remind us that both of the religious collectivities concerned were developments of more or less respectable Christian denominations. And in the wake of the massive slaughter of religiously identified opponents in such places as the former Yugoslavia and Northern Ireland, who can deny that "ordinary" religion can also be a hazard to life and limb?

The important thing is therefore to understand why and how problems occur in *any* religious collectivity : not just in collectivities categorised *a priori* as cultic. This could be done by analysing the processes of, for example, exploitation, authoritarian leadership, harassment and abuse, systematic fraud and deception, violence and patriarchy in *all* religious collectivities. Such as approach might even reveal that religious collectivities are not themselves completely distinctive; it might show that religious collectivities are only marginally different from other voluntary organisations in respect of the problems to which they give rise. This is an heretical thought for a sociologist of religion.

This is not the place to develop this particular argument further (see Beckford, 1985a, 1989), so let me turn now to the question of why the problems attributed to "cults" gain a much higher public profile than the much more widespread problems attributable to supposedly conventional religious collectivities.

1. The Social Sources of Cult Controversies

Allegations that so-called cults brainwash their recruits, exploit them economically, abuse them sexually and, in many other ways, ruin their lives are too well known to need repeating here (Barker, 1984, 1989; Beckford, 1985b; Richardson, 1985, 1991, 1996). I want to suggest that this pattern of accusations and, in particular, its exclusive focus on stigmatised movements can be explained in terms of several characteristics of late twentieth century life in advanced industrial societies.

1.1 Massification and demonisation

Firstly, the consolidation of nation states with relatively stable boundaries and effective measures for monitoring and controlling the activities of their populations has helped to perpetuate the medieval suspicion of people who were migrants, vagrants, wandering holy men and women or free spirits. Nowadays citizenship is not only the key to eligibility for various obligations and benefits but it is also inseparable from numerous processes of official registration, monitoring and surveillance. The surface of late modern life may appear to be fragmented or confused, but the underlying forces of standardisation, rationalisation and commodification are still powerful. The metaphor of "slipping through the net" conveys the sense that people whose life course does not conform with the "normal" progression through stages of education, training, employment, consumption, sexual relationships, leisure and welfare have somehow managed to avoid the normal devices for detecting failures in the system or weaknesses of individual motivation.

The fact that members of some minority religious movements choose to order aspects of their lives in accordance with different priorities makes them objects of suspicion because, among other things, their non-conventional ways of living imply that something is wrong with the machinery of "normalization". The public sense of fear and outrage is all the more intense because it is widely believed that late modernity is a time of great individualisation and that non-conventional religious practices are therefore unnecessary. But permissible individualisation is mostly confined to choice of such things as dress, leisure activities, language and sexual relations. Departures from the expected patterns of education, employment and consumption are grounds for suspicion and, in some cases, demonisation. It is therefore acceptable to "shop around" for religious ideas, alternative therapies or spiritual experiences; but it is not

acceptable to follow a religious path which involves a break with the publicly approved life course. The fact that some people choose to abandon the path of "normal" education or employment for the sake of non-conventional religious ideals is experienced by others as an affront to their conviction that modern individuals are free, rational decision-makers. In other words, modern living is both massified *and* pervaded by an ideological conviction that individual freedom of choice is stronger than ever.

In these circumstances, claims that new religious movements brainwash their recruits or exploit them unfairly can be interpreted as reactions against the exercise of free will in a register to which the accusers are deaf. Allegations of brainwashing are the modern equivalent of late medieval accusations of witchcraft and demonic possession (Anthony & Robbins, 1980 ; Robbins, 1988). The common thread is the claim that reason has been subverted by an external agency.

1.2 Communication and controversy

Secondly, the severity of present-day strictures against NRMs is partly a function of the efficiency and rapidity of *communication* in the late twentieth century. In previous eras it was common for unconventional religious groups to operate only in very small geographical areas or to create their own remote communities as refuges from prying eyes. But nowadays it is possible for even small movements, with the help of telecommunications, to reach large audiences scattered over huge areas of the world. By the same logic it is more difficult for such movements to avoid prying eyes because communications among their opponents or critics are equally efficient. So, just as NRMs can capitalise on the advantages of computerized mailing lists and multi-media presentations to spread their message, cult monitoring groups find it relatively easy to collect information about large numbers of NRMs and to compile aggregate statistics. In this sense, the idea that the category of "cult" has become threatening on a large scale has been facilitated by the technology which permits rapid exchange, compilation and analysis of information between cult monitoring groups, researchers, journalists and programme makers around the world.

The intensity of today's cult controversies has to be understood partly in terms of the simultaneous application of communications technology by NRMs and by their opponents. If global communications have made the human world appear to be a smaller place than previously, they are also

making cult controversies more intense[2]. There is no reason why a small world should be less conflictual than a larger one. In other words, we should expect that religious controversies of all kinds will become more intense in the future. Indeed, one might go further and speculate that religion will continue to be a major contributor to global disputes because it is one of the places where the "colonisation of the lifeworld" by "the system" (Habermas, 1987) can be challenged.

1.3 Secularisation and polarisation

Thirdly, I suggest that religion is paradoxically likely to remain at the heart of controversies and disputes in the globalised future despite the fact that levels of participation in the activities of formal religious organisations are in decline and that religion exercises relatively little explicit influence over the policies pursued by governments, businesses or public institutions. How can religion be simultaneously controversial but marginal? Would it not be more sensible to expect that religion would become more bland and uninteresting as more people became religiously "illiterate" or simply unconcerned about it ?

My answer is that it is precisely the fact that large numbers of people in advanced industrial societies are ignorant or apathetic about religion most of the time that makes the activities of those who are enthusiastic about their religion potentially more controversial. I am not simply repeating the observation that secularization is compatible with outbursts of religious enthusiasm in marginal places (Wilson, 1976). I am arguing that a process of *polarisation* is taking place between religiously energetic minorities and religiously apathetic majorities. Moreover, this process of polarisation will ensure that, in the midst of secularization, religion will remain controversial. My claim is not that NRMs are throw-backs to an earlier age of religious vitality. On the contrary, I want to suggest that it is very modern dynamic between active minorities and inactive majorities which is helping to create a new and polarized situation. The public animosity towards NRMs is only one expression of the perverse logic which connects secularization with intense religious controversies. NRMs are simply caught up in a process which affects all religious collectivities.

2. What Would Make "Cults" Appear to Be "Normal"

What evidence is there to support my argument that the demonisation of "cults" is a product of social forces inherent in late twentieth century

advanced industrial societies ? One way of answering this question is to calculate how far NRMs would have to change in order to become acceptable. In other words, what would help to make NRMs appear to be normal or acceptable? I was inspired to pursue this approach by Peter Brown's stunning insight into the political economy of religious toleration in late Roman antiquity :

> Seen from the point of view of the civic notables of the fourth and fifth centuries, the annual paroxysm of the collection of taxes... and not religious affairs – however exciting these might be ... to those who knew about such things, on a supernatural level – was the true elephant in the zoo of late Roman politics... In most areas, the system of negotiated consensus was usually stretched to its limits by the task of extracting taxes. It had little energy left over to give "bite" to intolerant policies in matters of religion (Brown, 1995: 41-2).

In short, religious minorities and enthusiasts in late Antiquity could be tolerated if they paid their taxes. Toleration was extended to minority religions for pragmatic reasons: not out of concern for philosophical principles. Is this still the situation ? Let me discuss five ways in which toleration is extended these days to NRMs which satisfy various non-religious conditions imposed by state authorities.

2.1 Toleration depends these days on much more than paying taxes, although movements which are seen to evade their fiscal obligations certainly confirm the modern stereotype of cults as *fraudulent*. The Church of Scientology, for example, has attracted especially harsh criticism for its attempts to qualify for tax privileges on the grounds of being a religious organisation in the USA (successfully) or a charity in the UK (unsuccessfully). In both cases, the crucial question is whether Scientology constitutes a religion: and the answer is sought paradoxically from state agencies with responsibility for purely material things. Nevertheless, religious movements seeking to have their religious authenticity affirmed must turn to these secular agencies. Being recognised as religious in the eyes of the US Internal Revenue Service or the Charity commission in the UK or a court of law in Italy is a necessary but not sufficient condition for achieving acceptability in the long-run.

2.2 In parts of southern Europe and elsewhere in the world, NRMs are tolerated on condition that their members comply with requirements to perform *military service.* States which offer exemption to categories of religious professionals still tend to demand that NRMs prove their religious authenticity by showing willingness to comply with conscription laws before becoming eligible to apply for exemption.

2.3 Another condition of NRMs' acceptability in many countries is the abandonment of all claims to *cure* medical problems, especially if therapy forms part of the movements' normal practices. Challenges to, or evasions of, state-licensed medical practices are rarely tolerated. NRMs are under suspicion if their members do not avail themselves of publicly available medical services or personnel.

2.4 *Education* is less tightly controlled by state agencies than is the provision of health care, but NRMs which prefer to educate their members' children in their own schools are still widely suspected of irresponsibility or ulterior motives. Movements which educate their children from different countries in a single international school are especially suspect. They are accused of trying to hide their children in places where the standards of education and care cannot be easily monitored.

2.5 A novel condition of acceptability in the UK concerns the *accessibility* to the public of NRMs' worship services. The Broadcasting Act 1990 made it a condition of religious organisations' access to commercial channels of television and radio that their worship services should be publicly advertised and accessible to members of the public without special invitation or the payment of entrance fees. This condition seems to be predicated on two assumptions. The first is that *bona fide* religious organisations presumably have no need to impose restrictions on access to their services; and the second is that the risk of abuse or exploitation is reduced if a religious organisation's services are open to public scrutiny.

In short, there is a close parallel between late Antiquity and the late twentieth century in so far as toleration of religious minorities in both eras was and is still conditional on their satisfying largely "secular" criteria of religious authenticity. My point is that this dependence on the deployment of non-religious criteria by agencies of the state in order to make decisions about the authenticity of NRMs is virtually inevitable at a time when

religion is fragmented and when no single religious organisation has control over it (Beckford, 1989).

CONCLUSION

The Normal – Abnormal Continuum

The difference between "normal" and "abnormal" religious groups is not so much a matter of fixed categorical distinctions but more a matter of skirmishes along a shifting frontier. In fact, sociological analysis is best served by substituting "continuum" for "distinctions". Of course, public opinion and some religious interest groups prefer to make categorical distinctions between, say, "real religion" and "destructive cults". But a dispassionate analysis of the social aspects of religion suggests that, within all religious organisations, some practices are accepted as clear evidence of religious authenticity and others are suspected of compromising that authenticity. The criteria of acceptability change over time, often reflecting ethical and ideological changes which take place outside religious organisations.

Moreover, the skirmishes that break out from time to time in connection with the objectionable practices of specific NRMs are rarely conducted in isolation from other grievances. Discussion of particular cases quickly gives way to claims about the entire category of "destructive cults" or "cultism" as a general issue. Continuities between NRMs and other religious organisations are thereby ignored or suppressed for ideological reasons. Sociologists would be better advised to concentrate on analysing specific dimensions of all religious collectivities without making prior judgements about their church-like or cult-like nature.

NOTES

[1]. Paper prepared for the biennial meeting of the International Society for the Sociology of Religion, Université de Toulouse-le-Mirail, 1997.

[2]. Disputes in some Christian churches are also intensified by the ease of modern communications and by the relentless search of journalists for sensational stories. See Ammerman, 1990 on the conduct of disputes among the souther Baptists in the USA.

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INFORM : BRINGING THE SOCIOLOGY OF RELIGION TO THE PUBLIC SPACE

Eileen Barker

Frontier religions are, by definition, those that are breaking new ground and they tend, almost by definition, to consist of first-generation converts who have chosen to move on from the old beliefs and practices of their parents and the rest of society. Rejection of the established and embracing of the new is unlikely to endear such people to those in the public space who prefer to stay within the safety of tested and familiar boundaries. The movements might well be seen as a threat, a disruption, or even as an undermining of the very fabric of society. This is a fear that in the past has led to Pagans feeding Christians to the lions, and Christians burning heretics at the stake.

Today, the response to followers of new religions may not be quite so drastic, but the fear and suspicion remains and, to a greater or lesser extent, societies throughout the world are currently alerting their populations to the dangers of cults, sects or new religious movements, and not infrequently, passing special laws to deal with 'the problem'. Governmental Reports have been commissioned, and while some have concluded that the public furore is an exaggeration[1], others, relying heavily on the so-called 'anti-cult movement' for information, have drawn up lists of groups which are considered criminal and/or dangerous and which need to be controlled by the state apparatus.[2] Apart from official reactions to the new religions, there are those who have taken the law into their own hands, resulting in injury, even death, quite apart from widespread discrimination in jobs, schools and various other areas of public life. At the level of the family, parents have been persuaded to have their children kidnapped so that they may be 'deprogrammed'[3], or, more frequently nowadays, "exit counselled" in order to rescue them from the aberration that, it is believed, they have been manipulated into joining.

Not that the behaviour of those in the public space is incomprehensible. It is all too understandable. Not only is there always likely to be a healthy suspicion of those who cross social and cultural

frontiers, but there have been some well-publicised and horrifying examples of frontier religions during the past decades. Few have not heard of Aum Shinrikyo, the Solar Temple, Heaven's Gate or Jonestown. Few have not heard of families being broken up when one of their number has been 'lured into' a 'bizarre, doomsday cult' by 'irresistible techniques of mind control'. And few have not heard about the political intrigues, financial skulduggery, and criminal activities of groups led by an all-powerful charismatic leader whose followers blindly obey his (or occasionally her) every instruction.

Without question, it is true that some frontier religions *have* resorted to criminal and socially unacceptable practices. But that does not mean that *all* new religions have done so. It is also, without question, true that most, if not all, of the traditional religions have been responsible for what most of us would consider equally reprehensible behaviour more reprehensible than that of many of the new religions, in fact. But the generalised *image* of new religions in contemporary society, as throughout history, tends to be constructed in a monolithic manner, mainly ignoring the acceptable or praiseworthy while parading any shocking or unacceptable characteristics.

Of course, one must not exaggerate. One can find a variety of images being touted in the image marketplace. One of these is provided by the movements themselves, but some movements are secretive about their beliefs and practices; a few of them blatantly lie; most select only what they believe to be their more attractive features for public consumption.

A somewhat different picture is drawn by social scientists who have studied the movements from a variety of angles, trying to present as objective and contextualised an account of the movements as possible. In other words, the social scientist tries not only to be accurate in reporting facts, but also to put these in a comparative context so that visibility is not confused with frequency or typicality. If, for example, a cult has three suicides in a year, the media are, understandably, likely to present this as a cult-related happening: *Cult victim kills himself.* One does not, however, see a headline stating that a Catholic has killed himself. The social scientist might discover that the suicide rate among Catholics of the same age and social background is twice as high. This would not be to deny individual tragedies, but to suggest that it might be something other than just 'cult membership' which was responsible for the tragedy – and that it is even possible that membership of the cult might prevent some people from taking their own lives.

Social science is, furthermore, concerned with statements that are empirically testable, rather than with moral evaluation or theological

arguments, and it tries not to use value-laden concepts to praise or condemn. Thus, rather than saying 'this is a bad cult', the social scientist will say 'Children in group X are beaten if they misbehave'; 'Ex-members of group Y have reported that the guru uses his position to get young female members to have sexual relations with him'; or 'The members of group Z have to hand over all their property to the community'.

Of course, some social science has been carried out in greater depth and with more methodological sophistication than others, but the basic aim is to be as accurate as possible without bias on either side. Social scientists are not, however, renowned for their clarity of expression and only rarely write popular books or articles. Far more readily accessible in the public space are the images constructed by the media, who have a vested interest in attracting an audience and bad, sexy, sensational, new stories are far more attractive for most of us than good, dull, every-day, old stories. Furthermore, one of the main sources upon which the media tend to draw is the 'anti-cult movement'--coalitions of persons who, sometimes for very good reason, wish to alert the public to the dangers of the cults and persuade the authorities 'to do something' about them[4].

1. INFORM

Having been studying new religions and societal responses to them in Europe, North America and various other places around the world since the early 1970s, I had witnessed what seemed to be a considerable amount of unnecessary suffering this applied both to members of the new religions and, possibly even more, to the relatives and friends of those who joined a movement that they didn't understand. I concluded that although there were always likely to be disagreements, much of the suffering was unnecessary in so far as people were acting on the basis either of ignorance or of misinformation supplied by the movements and/or their opponents. On the one hand, parents' reactions to their (adult) children's joining a movement were frequently exacerbating rather than ameliorating their relationships; on the other hand, there were avoidable tragedies such as the deaths of the Branch Davidians at Mount Carmel, Waco.

It struck me that some of this suffering might be alleviated if people had easier access to the kind of information that social scientists were producing. I approached the Archbishop of Canterbury and the British Government and, with their support and the help of a small working group of parents, academics and some other interested people, set up the Information Network Focus on Religious Movements (INFORM), which,

after about eighteen months' preparation, 'opened shop' on the first of January, 1988.

Needless to say, INFORM's appearance on the 'cult scene' was not welcomed by all the other participants. This is not the place to describe the attacks and 'dirty tricks' to which INFORM has been subjected and is being subjected still. Suffice it to say, that we have been continually vilified by some of the movements, some other 'cult-watching' groups and some sections of the media--though we have built up good relations with several other 'cult-watching' groups around the world (including a few that are labelled 'anti-cult'); several of the new religions now co-operate with us by providing at least some information and in trying to sort out problems that have arisen; and, increasingly, the media have come to find INFORM an invaluable resource and are now more likely to use us than to attack us.

While certainly not wishing to deny that there is a place for watch 'dogs', I do believe that objective information, which includes an understanding of the complicated processes that occur in new religions, is essential if we are to avoid some of the pitfalls into which people in the public space have fallen in their relations with frontier religions in the past. It is important that there should be an awareness of the dangers of relying on accounts that have been constructed from one-sided perspectives--be these stressing only the positive or only the negative aspects of the movements. The truth is not necessarily 'in the middle'. Social phenomena are far more complicated than that. Furthermore, negative and over-simplistic generalisations made by anti-cultists and popularised by the mass media, can well result in genuine problems being obscured.

Not only is it dangerous to generalise about the movements as a whole, but it also has to be recognised that the same movement can differ quite radically at different times and in different places--and that, even in the same place at the same time, it can have a different effect on different people. Each case is unique and to understand any particular case we need information not only about the particular movement, but also about the particular persons involved.

1.1 INFORM's general policy

INFORM is a non-political and non-sectarian charity[5], which aims to provide objective, balanced and up-to-date knowledge as a basis from which individuals can make their own decisions according to their own

values. It does not advocate any particular ideal or goal towards which people should be led, but it does try to minimise unnecessary suffering. It believes in respect for the individual, and that all citizens have equal rights and responsibilities, irrespective of their religious beliefs.

INFORM does not believe there should be special laws that apply only to alternative religions or 'cults'. Its position, shared with successive British governments, is that members of new religions should not be treated any differently from members of old religions or no religion *just because of their beliefs*. But if members of a new religion in a democracy offend against the law of the land, the law ought to be enforced and the offenders should be prosecuted and sentenced as rigorously or leniently as any other group or person would be for the same offence.

It might, however, be necessary to introduce new laws which, while applicable to *all* citizens, would cover certain issues that have arisen because of the existence of some of the movements. Amendments might, for example, be introduced to laws concerned with children in 'closed' communities; it could be helpful to strengthen the application of the *habeas corpus* law, and/or to expand 'consumer protection' legislation, allowing for a 'cooling off' period after large sums of money or property have been handed over to a movement.

INFORM recognises that some movements engage in practices which, while not criminal, are not generally considered socially desirable. As a consequence, INFORM tries to educate and, where necessary, alert people with accurate information about the movements and the possible consequences of joining one or other of their number. Plans are in progress to introduce an 'education package' that could be widely distributed to schools, institutions of Higher Education, youth clubs and other organisations, providing material that would help young people to make informed choices about the movements.

INFORM's policy of initiating and maintaining contact with the movements has a number of beneficial consequences. First, the movements are considered an important source of information about their own beliefs, practices, organisation, history etc. They are not INFORM's only source, and INFORM does not agree with, condone, or even believe everything that it is told. Secondly, INFORM has found that direct contact (rather than indirect confrontation or attacks in the media) can frequently result in ameliorating a number of difficult situations. The contact can involve mediation in particular cases; alternatively, dialogue with a movement can result in its altering some of its more dubious practices.

INFORM does not accept funding from any persons or groups (such as

alternative religions) that might try to influence, or be thought to influence, its policy of providing objective information. No member of a new religion can serve as a Governor or be a member of INFORM's staff.

INFORM staff are carefully selected and trained in accordance with the general principles of the social sciences. They have the opportunity to attend LSE graduate seminars at which speakers include academics and others (such as ex-members, parents of members and some current members) who have experience of alternative religions.

Since its inauguration, accountability has been one of the main concerns of INFORM's work. Confidential case notes have to be written up for each enquiry, and at least one other member of staff will look at the notes both to make suggestions of how further help may to be offered and to ensure that INFORM policy is being followed.

Staff meetings are held on a regular basis to discuss how best to help particular enquirers according to INFORM's tested principles. Staff meetings are also used to exchange general information and discuss the constantly changing trends within and between the movements.

All case notes are treated as strictly confidential and no personal details are divulged to anyone outside INFORM without the express permission of the individuals concerned.

1.2 INFORM's Structure

1.2.1 *A Board of Governors* is responsible for INFORM's general policy and for the appointment of staff. It consists of around a dozen persons from various walks of life, including representatives nominated by the Church of England, the Free Churches, the Roman Catholic Church and the British Sociological Association Sociology of Religion Study Group as well as some academics, counsellors and parents.

1.2.2 *A Management Committee* (consisting of the Chair, one of the vice-Chairs and the Treasurer and the Acting Director, with the power to co-opt other persons for particular purposes) is responsible for the more practical running of the office and ensuring the execution of policy decisions that have been made by the Governors.

1.2.3 *Staff:* Currently working in the office, which is housed in a couple of rooms at the London School of Economics, are a full-time Acting Director (5 days a week), an Information Officer (2 days per week) and an Assistant Information Officer (one day per week) all of whom

answer the telephone, reply to letters and help people who turn up in person, as well as collecting information which has to be filed in an easily accessible form.

There is also a part-time Administrative Officer (3 days a week) who is responsible for making sure the office functions smoothly and the finances are kept in order. He, like the other members of staff, has taken a graduate course in Religion in Contemporary Society. Students and other volunteers help with filing and some of the more routine tasks, but are not allowed access to confidential information.

1.3 The Network

INFORM is in daily touch through telephone, e-mail, fax or other means with an international network of people who can help us with information or some kind of specialist knowledge or experience. The network includes professionals such as scholars; lawyers; doctors; social workers; clergy (priests, ministers, rabbis, chaplains) and specially appointed diocesan representatives from across the nation[6]. People with personal experience, such as relatives of members and former members are also part of the network, and an enquirer may be put in touch with some of those who are willing to spend time sharing their experiences with others in a similar situation. But this sharing of experiences should not be confused with counselling.

INFORM does not itself offer counselling. It believes it is imperative that counsellors and therapists should be professionally trained and professionally supervised. There are some organisations that use or recommend as counsellors individuals who have gone through the experience of having themselves been, or of having someone close to them, in a movement. The danger with using such people is that they may be working out their own problems and, without professional training and some measure of accountability, they may actually harm those whom they purport to help.

As intimated earlier, INFORM also makes contact with the movements themselves whenever this is possible. This is partly in order to obtain information from their point of view – which, even if not always taken at face value, is a valuable contribution to our understanding of, minimally, how they would like to see themselves presented. It is also partly in order to develop a relationship so that it is easier to negotiate mediation should the need arise. Not all the new religions agree to have contact with INFORM, but a surprisingly large number are willing to co-operate with

us to at least some degree. Even if this is only for public relations reasons, the contact can be helpful in sorting out a significant number of problems.

1.4 Resources

Information is collected from a variety of sources around the world: from scholars; from the movements themselves; from former members; from other 'cult-watching groups' (be they anti-cult, counter-cult or church, governmental or academic); the media and, of course, from our enquirers.

The INFORM office houses a specially designed computer programme with basic information about over 2500 different groups[7]. The programme has an elaborate cross-referencing system which includes not only the details about particular movements, but also themes such as 'violence', 'millennial expectations', 'child abuse', 'meditation'. Visitors to the office can make use of a sizeable library of books, numerous cassettes and videos, and a score or so filing cabinets which contain articles by academics; the movements' own literature; literature from their opponents; accounts by former members; governmental and legal reports; newspaper cuttings and various other written material.

Given that much of the material would seem to be contradictory, or at least to paint inconsistent pictures both of particular movements and of 'the cult scene' in general, the information has to be *assessed*. In doing this, it helps the user to be aware of where it comes from—few would expect the movements to expose the skeletons in their cupboards or to tell us about some of their more esoteric beliefs and practices. We do not expect the anti-cultists to tell us about positive attributes the movements might exhibit. We do not expect the media to tell us about the more 'normal' aspects of the movements.

1.5 Enquiries

During the past twelve years INFORM has helped thousands of enquirers by giving information both directly and indirectly, through the network. Sometimes it has also helped just by being there and listening to people who felt that there was no one in the world who could possibly understand their problems.

The two largest group of enquirers (each comprising about one third of the total) are the media and relatives and friends of members of the movements. Other enquiries come from local, national and international government agencies, such as the Home Office and Departments of

Immigration, Health and Education, the police, the security services and the social services. Members of the British and European Parliament, and the US House of Representatives and the Senate, the media, NGOs, the Mothers' Union, various religious bodies and clergy (including hospital and prison chaplains); teachers (at schools and universities); students (school, undergraduate, doctoral, post-doctoral); former members, current members and prospective members of the movements; private researchers --and various other organisations and interested members of the public from all over world.

Contact can be made by telephone, letter, fax, e-mail or by visiting the office. It would not be surprising for INFORM to be contacted in one day by a lawyer in Singapore; an anxious parent in Brazil, and another from Edinburgh; a researcher from the House of Commons Library; and half a dozen members of the media who are chasing up a story of satanic child abuse. At the same time, it is possible that a student is sitting in a corner going through some files and a couple of representatives of some foreign government are observing how INFORM operates, with the idea of setting up a similar organisation in their own country.

When someone contacts INFORM with a query about a particular movement, or new religions in general, they will be given as much information as possible by the office staff, who may then send the enquirer some basic literature--and/or agree to carry out further research and get back to him or her. The staff may also suggest further actions that enquirers can themselves pursue, such as reading relevant books or articles. They may arrange for the enquirer to have contact with one or more members of the network--with, say, someone who has researched the movement, or has had personal experience of it or a similar group. Sometimes the enquirer might want pastoral help or the professional assistance of a lawyer, a doctor or a counsellor.

Sometimes INFORM is prepared to mediate directly with the movement although, given the strict confidentiality that INFORM observes over individual enquiries, this would, of course, never happen unless the enquirers made an explict request.

1.6 Outreach

While it does not lobby either against or on behalf of any group, this does not mean that INFORM passively waits to answer enquiries. It does not merely respond to enquiries, it believes that it can and should pro-actively use the information it accumulates both to allay unnecessary fears

and to alert over-complacent individuals and official organisations to actual or potential dangers. It has informed the relevant authorities when allegations of serious criminal activity, such as child abuse, have been brought to its attention.

Information supplied by INFORM is used in court cases and for judicial education. It has provided information to governments around the world--and talks on the work of INFORM have been given in such places as the Russian Duma, at the European Parliament in Strasbourg, the Hungarian Parliament in Budapest and to several Ministries of Religious Affairs.

1.7 Seminars

Twice a year, a day-long Seminar is organised around a particular aspect of the new religions. These are attended by about a hundred persons and have covered topics such as *NRMs and Violence; NRMs and Sex; NRMs and the Media; NRMs and the Law; NRMs and Money; NRMs and Authority and Dependence; Leaving an NRM; NRMs and the Family; NRMs and Education; NRMs and Health; Changes in NRMs; NRMs and Children; The New Age; New Movements within Christianity; NRMs and the Millennium; NRMs and the Internet.*

One of the most notable features of the Seminars is that the speakers and audience cover a wide range of persons with very different experiences and perspectives. These include academics, students, social workers, clergy, students, police, government officials, doctors, lawyers, prison officers, members of the 'anti-cult movement', members of the media, relatives and friends of members of the movements, ex-members, a few members of the movements themselves, and interested members of the public. At such Seminars, it is possible to see people who would normally be at each other's throats not exactly agreeing with each other, but engaged in exploratory dialogue, learning about each other's perspectives, and sometimes entering into a relationship that continues long after the Seminar is over.

In 1993, a four-day Conference was attended by over 200 participants from 23 different countries. A selection of the papers was subsequently published in a book *New Religions in the New Europe.*[8] A second international conference is to be held in April 2001 in conjunction with a number of other 'cult-watching groups'.

Special workshops have been given for professionally trained counsellors and therapists, giving them information about the new

religions and discussing some of the problems which arise as a result of their existence. INFORM has also contributed factual information at seminars arranged by the mainstream religions for their clergy.

1.8 Literature

INFORM has produced a number of leaflets about a variety of new religions, giving basic facts about their history, beliefs, practices and organisation, with a brief discussion about any points that may have given rise for concern, and how to find further information about the movement.

Just after setting up INFORM, I wrote a book, *New Religious Movements: A Practical Introduction,* which, while drawing on the research conducted by social scientists, addresses the kind of questions that relatives or others (such as teachers or clergy) who know someone who has joined a new religion may ask. The first part presents some basic information about the movements and the second part discusses potential problems with suggestions as to how these might be dealt with. There is also an Appendix with information on thirty or so movements about which INFORM receives regular enquiries.[9]

At the beginning of each academic year, a poster is sent to universities and colleges throughout Britain, alerting students to problems possibly associated with becoming involved in a friendly group which might be offering simple solutions to their problems, and telling them where they can turn for further information and, if necessary, help. Students and other travellers have also received a warning note that we wrote to be included in a leaflet handed out with passports.

1.9 Speakers

Speakers are provided for schools, colleges, universities, churches and various other public and private organisations in order to give basic information and to stimulate discussion about what the movements offer converts, focussing in particular on practices involved in methods of proselytising, and some of the potentially negative consequences of joining some of the movements. Members of INFORM's staff and Governors also make a significant number of contributions to the popular media in print, and by appearing on radio and television.

1.10 Some examples

In order to try to bring to life a bit more the kind of work that INFORM does, it might be helpful to give a few examples. Although some details have been changed to preserve anonymity, the stories that follow are based on actual cases:

Mrs A had a 19-year-old daughter working full time for a new religion. She had been in touch with another organisation that had recommended a well-known 'deprogrammer' who had attempted, unsuccessfully, to persuade the daughter to leave. The consequence was that Mrs A was now having difficulty in communicating with her daughter at all. At Mrs A's request, INFORM arranged a meeting on neutral ground with Mrs A, her daughter, and a representative from the movement. As a result, the daughter agreed to stop working for the movement for two years on the understanding that if she wanted to go back after the two years 'in society', then Mrs A would not try to stop her.

Mrs B learned that her husband had mortgaged their jointly owned house not, as he had told her, to pay for roof repairs, but to pay for some self-development courses. After many months' negotiation with the group, INFORM succeeded in getting a cheque for a five figure sum for Mrs B as her half of the money that her husband had paid for the courses.

The Reverend C was worried about a group of people who wanted to hire his church hall for meetings. INFORM gave him information about the group and he decided to let them go ahead and hire the hall.

The Reverend D decided not to let the same group hire his hall after INFORM had given him identical information.

Mr E's sister, who had suffered a severe mental breakdown, had been hospitalised. The psychiatrist asked Mr E to find out more about the meditation centre his sister had been attending for several months as he thought it might be responsible for her illness. Mr E did not know the name of the group but did know the address from which it operated. INFORM's computerised database immediately identified the group as one about which INFORM holds extensive information. It had received varied enquiries about the movement over the past eleven years, but no information it held suggested their meditation practice led directly to mental illness. It was thus able to tell Mr E that it was unlikely that the practice *per se* was the cause of the mental illness, although it was possible that the meditation had brought to the surface an underlying mental health problem. The psychiatrist consequently concentrated on other possible causes for the breakdown and was subsequently able to exclude the meditation as a cause of the illness.

Mrs F had been told that she would not see her son again as he had joined a destructive cult in the USA, and that her only hope was to get him kidnapped from the group. She rang to ask if INFORM could suggest someone suitable. INFORM warned her that, apart from being illegal, such action frequently resulted in the convert returning to the movement as a more fanatic believer than before and with a deep distrust of his parents. Instead, it was suggested that she should go to the USA, meet her son and listen to what he had to say. She should then reassure him that she loved and trusted him, and was glad he was happy and felt he was doing something. She should, however, also say that she was concerned because she had heard some things said about the movement that were worrying and wanted to ask him whether he had found these to be true. He would be likely to say they were not. She might then ask, 'What would you do if you were to find out that they were true after all?' This she did and, as expected, the son replied that he would not wish to be a member of such a group.

Mrs F, again at INFORM's suggestion, told her son that, 'just in case', she had arranged with British Airways that an airline ticket would be available at the airport for him should he want to return to London. Several weeks later the son rang his mother and asked whether she could pick him up at Heathrow as he was flying home that evening, having learned that there was some foundation for one of the allegations his mother had told him about. He thus returned of his own volition, having been alerted to a potential danger by his mother, with whom he still had a close and trusting relationship.

Mrs G told INFORM that she had not seen her daughter since she herself had left a new religion and was unable to make contact with her. It so happened that I had met the daughter and her father while studying the movement in Japan, and was able to arrange for the daughter to return to England where she and her mother met for the first time for 14 years in my kitchen. They spent the day talking to each other, and although their relationship is still somewhat strained, they continue to keep in touch with each other on a relatively friendly basis.

Mr H complained that he kept receiving unsolicited mail and telephone calls from a group in which he had once shown a passing interest. INFORM contacted group which agreed to remove his name from their mailing list and the calls ceased.

Mrs I was worried because her son, who had just joined a new religion, was about to inherit a large sum of money. INFORM put her in touch with a lawyer who helped her to ensure that the money was put in a Trust and

could not be handed over to the movement until he was older. Although the son was not very pleased at the time, when he left the movement some months later, he was very grateful.

By definition, frontier religions will always present us with new challenges. They will introduce new ideas and practices and old ideas and practices dressed in new clothing. Their innovations will bring joy, happiness and liberation to some and tears, anger and frustration to others.

There will always be some problems that cannot be solved, but INFORM has a proven track record of having helped to improve numerous difficult and sensitive situations involving thousands of individuals--both directly and indirectly since its inception. INFORM does not have a magic wand, but it is, we believe, worth bringing the sociology of religion into the public space.

NOTES

1. See, for example, Ingvardsson, M., Wallbom, S. and Grip, L. 1998 'I God Tro: Samhället och nyandligheten (In Good Faith: Society and the new religious movements)', Stockholm: Statens offentliga utredningar, Social departementet; and Hill, D. G. 1980 'Study of Mind Development Groups, Sects and Cults in Ontario': Ontario Government, Toronto.

2. See, for example, Duquesne and Willems, L. 1997 'Enquête Parlementaire visant à élaborer une politique en vue de lutter contre les pratiques illégales des sectes et le danger qu'elles représentent pour la société et pour les personnes, particulièrement les mineurs d'âge', Brussels: Belgian House of Representatives; and Garay, A. 1999 *L'activisme anti-sectes: De l'assistance à l'amalgame*, Lampeter: Edwin Mellen Press.

3. Japan is the only First World country where a significant number of deprogrammings involving physical constraint are carried out--most of the subjects being members of the Unification Church.

4. I discuss the construction of a variety of images of new religions and the sociological approach to new religions in some detail in "The Scientific Study of Religion? You Must be Joking!" *Journal for the Scientific Study of Religion*, 34/3, 1995: 287-310

5. Reg. No. 801729.

6. One of the last tasks performed by the erstwhile British Council of Churches was to set up an ecumenical network of Diocesan advisers with whom INFORM is in contact for receiving and giving information.

7. Not all of these are new religious movements--there is also information about other groups including some older religions, such as Jehovah's Witnesses and Mormons, about which INFORM receives enquiries.

8. Robert Towler (ed.) *New Religions and the New Europe*, Aarhus, Aarhus University Press, 1995.

9. First published by Her Majesty's Stationery Office under the auspices of the Home Office in 1989, this is now in its fifth impression, and is shortly to appear as a fully updated second edition. It is currently available in seven languages, with more translations on the way and is used for reference and teaching around the world.

NEW RELIGIONS IN CYBERSPACE : THE PROMISE AND THE PERILS OF A NEW PUBLIC SPACE

Lorne L. Dawson

The mass-suicide of thirty-nine members of Heaven's Gate, on 26 March 1997, thrust the presence of new religions on the Internet into the public eye. Overnight the question of "cults in cyberspace" became a social problem as the group's extensive use of the Internet became known (Hoffman and Burke 1997). A wave of somewhat sensational feature stories rippled through the media. A *The New York Times* headline read "From porn to cults, the Net looks nasty," while *Newsweek* called on the double entendre "Web of Death." Online, surprisingly, the fears raised were sometimes even more extreme (e.g., "The Internet as a god and propaganda tool for cults " on *CNN*'s site). In the first flush of tragedy it became apparent that the problem sensed by the public was double-edged. On the one hand, there were the old suspicions of "cults." On the other hand, there were new worries about the mysteries of cyberspace itself. Had the investment of the Heaven's Gate group in the Internet led them astray in some way? Were impressionable minds exposed to influences on the world wide web that they could not adequately handle? Had the journey into virtual reality somehow fostered their confidence in a life "beyond the level of the human" and the destruction of their bodies? It was the conjunction of these two concerns that inflamed the imaginations of the press (see Robinson, 1997 for an overview).

Yet the presence of new religious movements on the net was, in some ways, old news by 1997. Like American fundamentalists in the first half of the twentieth century, the exponents of new religious views had been quick to realize the potential of the new medium for evangelism. Somewhat ironically, for the fundamentalists, the advent of radio, and then television, was taken as a Godsend (cite Frankel, 1987 or Ammerman, 1991). Hundreds of even smaller and more exceptional new religions were perhaps even quicker to seize the opportunity presented by the Internet. Instant contact with thousands

of people around the world, and all in a remarkably inexpensive and highly adaptable way to spread the word, attract new members, canvass donations, and distribute or sell literature and merchandise. Today most of the better known new religious movements operate quite sophisticated web sites, as do hundreds of quite obscure groups (see Cottee, Yateman, and Dawson 1996, and Dawson and Hennebry 1999). With the quick stroke of a few keys anyone can bring the literature from a new religion in Japan to their mailbox in less than a week. How easy it is, and one do not even have to run the risk of speaking with anyone.

But this ease of communication poses a problem as well. One has no need to become further engaged with the group either. Will the Internet, for all its vaunted interactivity, when compared with the established broadcast media (e.g., magazines, books, radio and television), become a powerful tool of cult recruitment? I have my doubts. As Hennebry and I (Dawson and Hennebry 1999) have argued elsewhere, the nature of religious contact offered on the web, at least so far, tends to be too detached. Successful recruitment, as we now know (see Dawson 1998a, chapter three), relies heavily on intense personal interaction with members of the religion and involvement in their activities. The exaggerated fears of "spiritual predators" stalking the web can be quelled, then, by a simple examination of the facts. But in exploring the issue of recruitment through the net, other less obvious and potentially far more telling and fascinating concerns arise. As the growing chorus of both self-appointed and scholarly gurus of computer-mediated communication keep telling us, it is a mistake to think of the Internet as just another supposedly neutral means of communication. It is not so much an instrument as a new environment or context, one "corresponding to space-worlds and time-worlds that never before existed in human history" (Holmes 1997, 3). The very nature and reach of human consciousness and culture are being extended, and hence changed, by the new virtual technologies arising around us. Just as our consciousness and culture were changed in the past by the automobile, television, and all the other technological wonders of the modern age. Marshall McLuhan (1964) pointed all this out long ago, but the message is still sinking in. Media technologies change who we are by virtue of their use and regardless of what we choose to transmit through them. What, then, might be some of the anticipated and unanticipated consequences of the religious uses of the Internet?

In this essay I will briefly survey some of the issues at hand, discussing five supposed advantages of religious life on the Internet and then five criticisms of the same. My account of even the advantages, however, is ambivalent at best. The lure of cyberspace remains strong and it is unlikely

that the cultural, social, and psychological consequences of the Internet for religion can be avoided or reversed. The move of religion into a netted world is a component part of the larger processes that are changing the social face of religion before our eyes (e.g., Roof 1996; Dawson 1998b). So it is important that we begin to think more clearly about the possible consequences of this technology for religion, even though we are still only at the dawn of the Internet age and fumbling over ourselves to understand it.

1. Religion and the Promise of the Internet

1.1 Spreading the Word

Let us start with the obvious. As indicated, anyone with a small investment in some computer hardware, software, and training can mount a web page, and operate it at little expense. With the right specification of encoded "keywords" that page may become rapidly available to a potential audience of millions through the various "search engines" used to surf the net. This audience is expanding at an astronomically rapid rate, and it tends, at present, to be a relatively up-scale market for what anyone may be selling -- precisely the people most new religions wish to contact in their quest to mobilize resources (i.e., influential and helpful people with money). As Rodney Stark and William Sims Bainbridge (1996: 235-237) have argued, there are sound sociological reasons for the interest of new religions in the elite elements of society, and for the appeal of certain kinds of new religions to these cultural elites (detailed in Dawson and Hennebry 1999: 29-30). In other words, the Internet is probably facilitating the natural proselytizing tendencies of "cults," and in ways running contrary to the mistaken assumptions of the public. Contemporary new religions have been recruiting relatively well educated, it somewhat disaffected, middle class kids (i.e., young adults), not the maladjusted and/or marginalized members of our societies. There is a pronounced overlap between precisely those who have joined new religions in the last few decades and the primary users of the Internet, though the users of the net may on the whole be a bit older (see Dawson 1998a; Dawson and Hennebry 1999). As a means of evangelism and proselytization the Internet is able to circumvent, moreover, the political and commercial dominance of more conventional media by the elite defenders of the status quo. Accordingly, the Internet has truly become a haven for a plethora of alternative religions and spiritualities, from lesbian witchcraft to white-supremacist apocalypticism.

All the same, to sound the first note of ambivalence, from the beginning of

the world wide web, commentators have been anticipating that the vaunted anarchy of online culture may be stifled by its rapid commercialization. As the student of religion Jay Kinney observed as far back as 1995: "Since the Web allows a much broader palette of expression than mere text, it is likely that in short order it will be dominated by cultural professionals (i.e., entertainment conglomerates, publishing houses, ad agencies, professional designers and writers et al.) who will push the medium to a level of technical sophistication that by definition will require their services" (Kinney 1995: 770-771). For the larger and older new religions (e.g., Scientology, Eckankar, Church Universal and Triumphant), this developmental pattern need not pose a serious problem. They have been able to turn some of their members into skilled professionals in web page design. Many small groups also have been able to maintain their presence through the dedicated efforts of remarkably creative amateurs. In fact the success of these sites points towards the oft noted affinity between new religious orientations, like neo-paganism, and people working in the computer industry (e.g., Adler 1986, Luhrmann 1989, Kinney 1995, and Davis 1995). Yet, as any moderate surfer of the web can attest, it is becoming increasingly hard to navigate the web without the constant and unwanted intrusion of commercial sites, as companies have learned to parasitically play upon the search terms commonly used to pursue decidedly non-commercial topics. The ever present and rather repellent commercialism can be quite frustrating and short-circuit the desire of many to use the web as a means of investigating new forms of religious life.

1.2 Building New Communities

The Internet provides an unparalleled means, however, for those already "in-the-know" to stay in touch with each other. This is the second advantage of the Internet. New religious communities can be formed and operate over vast geographical distances, as regular twenty-four hour contact can be maintained in a relatively inexpensive manner. The monthly newsletter can be supplemented by or even replaced by the daily message of inspiration and instruction, with the added possibility of immediate interaction between the leadership and distant followers, and between the followers themselves. The Internet also opens up the possibility of much more direct and frequent contact between representatives of a new religious organization and other potentially helpful members of the broader public and various professional communities (like scholars of religion). This kind of networking greatly enhances the ability of such groups to rally allies in the face of legal challenges, negative media reports, and the other crises that arise from time to

time.

Early sociological discussions of the net, and analyses by some of the Internet's more avid promoters, are replete with words of praise for the new kinds of community made possible by the Internet (e.g., Rheingold 1993; Barlow, Birkerts, Kelly, and Slouka 1995; Jones 1995; Shields 1996; Barlow 1996). The defining feature of these new communities is the freedom allowed by the technology. First, there is the much vaunted freedom to overcome the constraints of the "flesh" (Holmes 1997: 7), the communicative restraints, that is, of Cartesian space and the natural cycles of time. Second, with the relative anonymity of communicating on the Internet there is the freedom to either overcome or ignore the biases born of the systems of stratification in which we all conventionally live. One need not know, and often cannot know, the class, occupation, race, ethnicity, age, or sex of those one is communicating with, and it is not uncommon for people to assume many different identities in the different kinds of virtual spaces available on the net.

In fact the great plurality and potential anonymity of computer-mediated communication allows for the subversion or at least circumvention of many aspects of institutional social control. Significant censorship of the Internet, at least from any centralized source (as opposed to voluntarily at the receiving end), remains unlikely in the face of the speed with which information can be spread throughout the vast reaches of the net and hidden by various ruses. It can be very difficult to track the source of some information and almost impossible to technically or legally suppress the sources of undesired information, with or without the co-operation of the various net providers (see e.g., Frankel 1996; Grossman 1997; Peckham 1998). With the onset of sophisticated encryption programmes this state of affairs is being reinforced. Controls can be applied, of course, through the creation of new legislation and by the adaptive application of existing laws, like those designed to protect the young from unwanted influences, individuals from harassment, fraud and other crimes, and to protect groups and companies against the infringement of their copyright and other proprietary rights. In this regard diverse policy initiatives are being pursued throughout the world (Racicot, Hayes, Szibbo and Trudel 1997; Loader 1997; De Santis 1998). But the Internet far exceeds the capacity of all other conventional means of communication for the distribution, en mass or otherwise, of either illicit or counter-hegemonic information. The Internet offers succour to those wishing to develop "oppositional subjectivities hitherto excluded from the public space " (Holmes 1997:13).

This means the web also can be used to reduce the stigma of engaging in a deviant religious lifestyle (amongst other things). It provides a new and even

safer way to be deviant, while "passing" as normal (Goffman 1963). This should facilitate the proliferation of a even greater number of new forms of religious expression in our already pluralistic and globalizing culture. Of course, it is then easier for groups to plan and execute acts of religious extremism as well, like the murders and suicides undertaken by the Solar Temple, Aum Shinrikyo, and Heaven's Gate. Curiously, however, in the case of Heaven's Gate, the only one of these three groups to actually use the world wide web to further its ends, no one seems have been listening when they declared their intention to end it all on their web site. If we can learn from this mistake, monitoring the net may facilitate the prevention of similar tragedies in the future. (Just as tragedy may have been averted had the Denver police paid addition to complaints made to them about the threats posted to web sites by the young gunmen who murdered thirteen people in their high school in Littleton, Colorado in May of 1999.)

1.3 Boundary Breaking

In principle, a third advantage of religious participation in the Internet is what Kinney calls the opportunity for "boundary-breaking discussion" (1995: 770). The Internet tends to foster, both intentionally and accidentally, inter-religious dialogue and perhaps even ecumenicism. It does so by exposing people to a myriad of alternative religious views from around the world. This exposure can be relatively passive, as when people surf the hundreds of web sites dedicated to religious beliefs and practices, or relatively active, as when people enter into conversations and debates about issues raised in the numerous Usenet news groups focused on religion or spirituality (ranging from alt.atheism through talk.religion.buddhism to alt.religion.scientology). No generation in human history has had the same opportunity to simply talk about religion with so many others, of all kinds of persuasions, and often in the frank ways facilitated by the relative anonymity of the Internet. Neither geographic nor social location need be an impediment any longer to the exercise of our religious imaginations or our passions, at least in terms of the exploration of ideas. The Internet can provide a broad, if not always very deep, education in the diverse religious heritage of humankind, and thus also in the very nature of religiosity itself. By lifting people, in potential at least, out of their relative "institutional enclosure," as Kinney (1995, 773) puts matters, it may even "lead to the creation of religious hybrids, idiosyncratic theologies, and informal liaisons between strange bedfellows." Whether this is thought to be a good thing or not will depend, of course, on one's point of view. It certainly is not for the defenders of orthodoxy or particularistic faiths.

But it may well be for the future of religion in general in our postmodern age.

1.4 Virtual Rituals

We can do more though than just talk about religion on the Internet. We can participate in virtual rituals, and this may be the fourth advantage of engaging in a computer-mediated religious life. This phenomenon is certainly not common yet, but it is happening. I know of three publications discussing such practices. The first two discuss, as might be expected, the activities of so-called technopagans (Davis 1995; O'Leary 1996). As noted earlier, it appears that there is a disproportionate presence of people working in computer-related fields in the neopagan movement, and accordingly, pagans are over-represented on the net. These technopagans, as Zaleski points out (1997, 275), "tend to hang out in MUDs like Divination Web (telnet: bill.math.uconn.edu.9393) or in Usenet groups like alt.pagan and alt.magick. An outstanding Web guide to Pagan resources exists at Arachne's Web, located at http://www.cascade.net/arachne.html." The connection between these two communities rests, he suggests, with the conceptualization of cyberspace as an alternate reality. There are two aspects of the ritual traditions of neopaganism that resonate with life in cyberspace: (1) the eclectic and creative use of diverse symbols, words, and ritualistic actions to create a transitory sacred space for the inducement of (2) altered states of consciousness where the powers of the imagination are temporarily placed on an equal, if not superior, footing to those reason and ordinary reality (see e.g., Luhrmann 1989). Can the sacred circles of neopaganism really be created on the net? This is not the place to indulge in a detailed analysis of the possibilities. But limited descriptions of some attempts are provided by Davis (1995) and O'Leary (1996). Clearly a problem is posed by the complete substitution of typed words and computer-generated images and sounds for real bodies holding hands in real-time. Can the simulated dancing of computer generated "avatars" (iconic figures operated by the participants in games and other virtual reality sites) provide the sensate stimulation of real bodies swaying to the rhythm of a chant while circling an altar lit with many candles? O'Leary (1996) has his doubts. Nonetheless, as he states (1996, 803) :

> In almost all the transcripts we witness an attempt to recreate or simulate real space in virtual space and to sanctify a portion of this space as a theatre in which spirit is manifested; an establishing of difference with the world outside as well as with other territories of

> cyberspace; and an assertion of the power of language to bring about wish fulfilment through the verbal act of declaring the wish within the ritual circle. To this extent, they appear as attempts to fulfil authentic spiritual needs now unmet by the major institutions of religious tradition.

In neopagan circles, we must recall, it is the practice for different members to create their own and constantly changing versions of the key rituals of the yearly cycle and other life cycle or singular events. Moreover, neopagans are often either compelled by their relative isolation or choose to practice their religion in a solitary manner. The Internet provides these neopagans with a remarkable new resource for creating and modifying rituals, and for sharing of their ritual innovations and experiences with others.

In the third study of virtual ritual, Ralph Schroeder, Noel Heather and Raymond Lee (1998) analyse the ritual practice of a charismatic E-Church. They describe how a small and constantly evolving group of Christians have attempted to replicate a charismatic meeting in cyberspace using an online multi-user virtual world. The meetings happen in a three dimensional computer-generated church where participants can move around and interact in the form of human-like avatars that operate from a first-person perspective on the world. After their analysis of the main features of the social interactions and text exchanges of a typical E-Church meeting, Schroeder et al. conclude (1998, 11) :

> Unsurprisingly, there are both similarities and differences [between the E-Church world and a conventional church service]: many practices and modes of communication -- the formal structure of the meeting, some of the content, as well as the roles -- are transferred from real world services into the virtual world. Some practices, however, are transformed by the technology, and may detract from the sense of a religious gathering; verbal exchanges become shorter, emotional solidarity with co-participants is weaker, and there is less orderliness to prayer meetings. But the technology also brings certain gains: the virtual church allows for more candid exchanges between participants, it enables a kind of access from all over the world that is not available in conventional services, and it permits experimentation in the use (and prior to that, the design) of the virtual space that is less constrained than a church in the real world.

Clearly these virtual manifestations of religious practice warrant more

study, particularly as they proliferate. Of course, it remains an open just question how common they are on the net in the first place. Regrettably, neither O'Leary (1996) nor Schroeder et al. (1998) move beyond a mere textual analysis of these ritual happenings. We need true qualitative studies of virtual rituality, entailing real-time participant observation and face-to-face interviews with those involved. There may be many different ways in which people are utilizing and responding to these situations. In his journalistic exploration of the religious uses of cyberspace, Zaleski (1997) expresses strong doubts about conveying the spiritual essence of religious practice, what he calls the subtle energies of prana, by the hyper-real simulations of computer-mediated communication. But he never studies any actual virtual rituals, and we lack the empirical data to say much about the veracity of his hunch.

1.5 Fostering a New Religious Consciousness

In discussions of religion on the Internet it is commonly noted that a new more ludic, reflexive, and even irreverent style of religious consciousness may be emerging in conjunction with this technology. In an earlier paper, Hennebry and I raised this point with regard to a particular religious creation of the Internet, a new religion called the Church ov MOO. The creators of this new religion, we noted, seem to be "attempting to devise a self-consciously postmodern, socially constructed, relativist, and self-referential system of religious ideas, purposefully and paradoxically infused with humour, irony, and farce, as well as a serious appreciation of the essentially religious or spiritual condition of humanity" (Dawson and Hennebry 1999, 35). In less extreme and systematic form, Davis (1995), O'Leary (1996), and Schroeder et al. (1998) found many of the same unconventional elements in the virtual rituals they studied. In these cases are we witnessing the adaption of religion to the cultural dictates of postmodernity? Could this development be considered a fifth advantage of doing religion on the Internet? O'Leary (1996, 803) clearly sees a connection (see Dawson 1998b as well), though he is less than sanguine about what is happening :

> This conjunction of reverence and irreverence seems to be in some way characteristic of the spiritual situation of postmodern culture, which can neither dismiss religion nor embrace it wholeheartedly, but which ultimately leads to its commodification along with every other product and project of the past that is not doomed to be discarded in the ash-heap of history.

Evocatively he goes on to say that the "postmodern sensibility of [the] audiences [for these forms of religious expression] floats like a hummingbird over the flowers of the world's historical archive, extracting nectar from the offerings of folk culture and high culture alike without distinction, employing language and the aesthetic conventions of a thousand traditions with allegiance to none" (1996, 803-804). Moreover, he concludes (1996, 804): "ritual action in cyberspace is constantly faced with the evidence of its own quality as constructed, as arbitrary, and as artificial, a game played with no material stakes or consequences." Yet the game continues and becomes ever more elaborate and "the efficacy of ritual is affirmed, time and time again, even in the face of a full, self-conscious awareness of its artificiality» " (1996, 804). Or as the founders of the Church ov MOO would say, because of its very self-conscious artificiality (Dawson and Hennebry 1999, 35-36). In the postmodern context of many contemporary societies, any other, less ludic, idiom of religious expression is likely to strike the cultural elite as too disingenuous or even delusional, and thus be unacceptable.

2. Religion and the Perils of the Internet

There is no particular order to the criticisms considered here. They are just some of the issues of note raised in the limited discussions of religion and the Internet so far. In some respects these criticisms overlap and their separation into distinct points is a bit artificial.

2.1 Misinformation Online

The first criticism that can be made of the use of the Internet as a means of religious communication stems from the disappointingly high ratio of "junk " information online. As Kinney succinctly predicted in 1995, "... the Net will encourage a rise in ill-informed debate, unintentional misinformation, emotional disputes, and the airing of stereotypes and dirty laundry " (Kenny 1995, 768). He was not willing to say then that the net was a "spiritual wasteland", since many people were engaging in thoughtful and unique exchanges in some newsgroups. But he notes a marked tendency to degradation, a kind of Gresham's law by which the "tremendous volume of trivial postings" was forcing serious discussants into specialty, invitation only, Usenet groups. The rapid commercialization of the world wide web is in many respects having the same effect, I suspect, as users are becoming disappointed with the endless barrage of advertising and insidious links to

nested commercial sites masquerading as sources of public information.

The ease of access to the Internet has returned us, in some respects, to the worst days of religious pamphleteering, when fanatics of one stripe or another openly castigated the religious beliefs and practices of others. In preparing a brief guide for student's using the Internet for research on new religious movements, I was compelled to warn students to exercise great caution in interpreting what they find since "propaganda of one form or another rules the web" (Cottee, Yateman, and Dawson 1996, 468). The suppressed religious bigots of this world have suddenly gained a new lease on life, and views that would never receive significant public distribution through the older means of broadcast are now consistently and readily available on the Internet. The web is quite blatantly a realm of vested interests, and as Kenny laments, we are witnessing "... increased opportunity for conflict and even computer-mediated warfare between religious individuals who trigger each other's defences." (1995, 773).

With these points in mind let us briefly consider an odd little exchange drawn from the web at the time of the Heaven's Gate tragedy. The web site of Heaven's Gate reveals that they believed their leaders (Ti and Do) to be aliens temporarily incarnated in human bodies to help humankind attain "the level beyond human." The members of this group committed suicide to leave their bodily "vehicles" and follow their leaders to this level. They had been preparing to do this for more than a decade. Jesus and his disciples, we are told, were an earlier version of themselves, and over the centuries other alien visitors have been mistakenly identified as "angels," while some other disincarnate, but negative and threatening aliens, have been misidentified as "fallen angels," Satan and so on. The members of Heaven's Gate chose the time they did to depart this world because they believed the cosmic signs were right, that an apocalypse was at hand, and that they were about to be covertly persecuted by government agents. These ideas are rather surreal in themselves, especially when we think of the deaths that serenely ensued. But the story is given an even more bizarre twist on another web page. A Christian anti-cult organization called Watcher declared on its website that they were not surprised by the Heaven's Gate suicides, because they had been warning for years "about the potential for people to be deceived by `aliens' (who are really fallen angels)." Having neatly inverted the Heaven's Gate reading of the situation, they think the dangerously misleading ideas of Heaven's Gate should be removed from the Internet. The Watcher site then goes on to decry how others have falsely accused them of being a cult, just like Heaven's Gate, and to predict, on the basis of some rather platitudinous comments made by President Clinton about the Heaven's Gate deaths, that the

government will soon be plotting to suppress their "legitimate" religious message. Why? Because the government does not want anyone thinking for themselves (unlike, presumably, the members of Watcher), or in ways contrary to its secular-humanist agenda, especially not on the "information super highway." Clearly, they finally assert, all of this is a sign that we are truly living in the end of days and must begin to prepare for the worst.

There is an Alice-in-Wonderland quality to this exchange that might lead us to dismiss it out of hand. But in browsing the web one can see that this curious twist upon twist of miscommunication is repeated over and again, especially in discussions of new or extreme religious views. The Internet remains a valuable source for doing such things as accessing primary religious document and quickly contacting members of diverse new religious groups. But increasing patience and discrimination is necessary if one is to sift the grains of reliable information from the welter of sensationalistic or erroneous chaff pilling-up in cyberspace.

2.2 Loss of Control Over Religious Materials

From the perspective of various new religions, one particularly troubling form of misinformation online, that represents a significant liability of the Internet, is the increased loss of control over their ideas. With few exceptions no group has been able to really maintain monopolistic control over the use and dissemination of their religious materials, scriptures, images, or whatever. But the Internet, as compared with the printed press, has greatly increased the ease with which renegades, heretics, and outright enemies can appropriate, alter, and misrepresent religious materials for their own purposes. In the face of such activities the Church of Scientology, for example, has fought a particularly long, hard, and expensive legal battle to secure the copyright of their materials on the net (see Frankel 1996; Grossman 1997 ; Peckham 1998). In many respects they have won the battle in the U.S. courts. But they have probably lost the war on the Internet, since the opponents of Internet censorship, who are legion, have made the very materials the church was seeking to control available on more sites, dispersed throughout the net, than any one organization or state can seek reasonably to even monitor, let alone control. The net is unlikely to be regulated by anything other then voluntary sanctions, and it is notoriously difficult to apply such sanctions to religious disputes. In the face of this fundamental fact of life on the net, the Canadian Radio, Television and Telecommunications Commission (CRTC) has recently declared that it has no intention of even attempting to regulate the Internet (May 17, 1999).

2.3 *Ersatz Community*

Is it true that the Internet is giving rise to new kinds of communities? Is it helping to create communities free of the conventional constraints of social distinctions like class, race, and gender? This is a matter still under investigation, though the latest studies suggest that matters are more complex than first thought. As might be expected the utopian rhetoric of some commentators has been found wanting. Internet users appear to be as preoccupied with differences in class, race, and sex as others. In some cases users have devised ways of making these determinations when the information is not readily available, by identifying, for example, the cues provided in the texts exchanged across the net. In other cases, they have shown a proclivity to volunteer this information in order to socially ground their electronic conversations and provide the assurances of authenticity that are implicitly elicited in a medium so open to dissimulation (e.g., Donath 1999, Brukhalter 1999, O'Brien 1999).

Taken another way, though, these same findings suggest that people are striving to replicate real communities in cyberspace, as they understand them in the flawed space of ordinary society. Barry Wellman and Milena Guila (1999) argue that such is indeed the case, pointing to evidence of intimate and lasting relationships online, online reciprocity in relationships, the sense of attachment that develops to these networks, and the ways in which they tend to move beyond narrowly specialized interests to become more broadly supportive groups with an impact of other aspects of peoples' lives.

While this may be true, other analysts remain sceptical. They argue that these computer-mediated connections are also extending the detrimental standardization, routinization, and instrumentalization of our relations with our own bodies and with other people that is associated already with the advent of previous technologies, from the automobile and highways to television (see e.g., McLuhan 1964; Ellul 1964; Marcuse 1966; Baudrillard 1970; Foucault 1979; Postman 1985). Are the limited kinds of interaction available through the net sufficient to replicate the kind, number, and quality of exchanges required to build a real sense of community. Establishing lasting commitments is a challenge these days, even in the context of more immediate and spatially and temporally uniform kinds of involvements (e.g., Holmes 1997; Willson 1997). The world of Internet communication strikes these critics as too one-dimensional and self-referential, and I tend to agree (Dawson and Hennebry 1999, 33) :

> The medium simultaneously and paradoxically tends to "compartmentalize populations" and physically isolate individuals, while also "homogenizing" them (Holmes, 1997: 16-17). As in the rest of our consumer culture, the market of the Internet tends to favour standardization with marginal differentiation. Consequently, with Holmes we find that dialogues on the net tend to be "quite transient and directionless, seldom acquiring a substantive enough history to constitute a political [or religious] movement" (Holmes, 1997: 18).

So while the Internet may augment the creation and spread of new religions by overcoming some of the constraints imposed by space, time, and the criteria of social stratification, in the process it may be working against the development of the bonds of true group identity. As Andrew Herman and John Sloop (1999) complain, the culture of the Internet itself, as well as the debates about it, are saturated with an implicit ideology of "romantic individualism." This ideology is not conducive to the ethos of self-sacrifice and submission to the will the group that is characteristic of many new religious movements.

2.4 One-Dimensionality

At the same time, it is possible that the Internet is not very supportive of true individualism and autonomy either, despite the ethos of romantic individualism. As Kinney, a student of gnosticism, observes, the net is not very compatible with the demands for solitary contemplation and social disengagement that most spiritual traditions prescribe for true spiritual development. Rather the Internet tends to distractingly involve its users in an endless series of "addictive facsimiles of life experiences" (1995, 774). In its very form, the world wide web inculcates a strong and almost reflex-like preference for heightened visual stimuli, rapid changes of subject matter, and diversity, combined with simplicity of presentation. Despite the veneer of active control and of interactivity, the intrinsic values of the web are much like those of television, with all its debilitating consequences for our habits of discipline and learning.

The one-dimensionality of computer-mediated communication comes across in another less easily defined way as well. Consider the following passage of conversation between the journalist Jeff Zaleski and Sheikh Kabir Edmund Helminski. Sheikh Helminski is the chief representative of the Mevlevi Sufi order in North America (the order renowned for its whirling

dervishes), and the creator and operator of the elaborate webpage of the Threshold Society, a non-profit educational organization affiliated with the Sufi order. At one point in the wide-ranging discussion between Zaleski and the Sheikh their attention turns to the effects of spending long hours transfixed before the glow of the computer screen (Zaleski 1997, 75) :

> JZ: ... I get kind of zoned out when I'm in front of the computer. I find it real hard to stay with myself -- not that that's ever easy.
> SKEH: You sort of forget that you have a body.
> JZ: Yeah.
> SHEK: You forget that you are a living, breathing creature. You enter a mental dimension, a mechanical and mental, technical dimension that is very absorbing and somehow pulls you in. This is a very interesting phenomenon. I don't pretend to understand it, and I've been trying to understand it for about ten years. There's something about the screen -- its mesmerizing, and it absorbs you.
> JZ: Absolutely.
> SKEH: And yet I don't feel any better for it. I don't think working at the computer returns as much in the realm of quality as working in a garden, or painting, or playing music, or sitting down and talking to another human being. I don't believe that engaging in a conversation in the Internet on a keyboard brings us as much or as many levels of information and experience, touches our heart the way that being with human beings can touch our heart, and touch many levels.

There may not be anything terribly profound about these observations. But in delving into the surge of utopian and dystopian commentaries on the Internet and its effects these simple and central concerns are easily overlooked. Personally, I have never been much taken in by the lure of the screen, of computer generated reality. But clearly a great many others are, as Zaleski himself confesses and contemplates over and again in his book *The Soul of Cyberspace*. We are not sure what the possible psychological and social effects of extended time in cyberspace may be. But at least one extensive study, by Robert Kraut of Carnegie Mellon University, has shown that "people who spend even a few hours a week on line experience higher levels of depression and loneliness than they would have if they used the computer network less frequently" (as reported in the International Hearld Tribune, August 31, 1998, p. 1 and 13).

2.5 *Blurring the Frames of Reality*

In our increasingly mediated and rapidly changing world, the social conventions for discerning and framing the real and the unreal (or pretend) are under mounting tension (Altheide and Snow 1991; Chayko 1993). The frame of reality itself is shifting in ways that have yet to be accurately traced, and ways that may be outstripping our capacity to fully understand. With the advent of the popular mass media, magazines, books, films, radio, television, video games, and the technology of virtual reality, we are becoming far more adept than our ancestors could ever have imagined at moving in and out of different frames of reality -- between imagined and literal worlds. The difference is becoming increasingly ambiguous as elements of these worlds interpenetrate, as experiences and emotional states leak out of the virtual worlds into the real one and real needs and desires are integrated into virtual worlds (Chayko 1993). Sometimes, in a postmodern manner, this blurring of boundaries is intentional, as in the reflexive playfulness detected at some points in virtual rituals and the self-conception of groups like the Church ov MOO. But in many cases the element of playful agency and critical reflection is less apparent, and in extreme cases the blurring of frames could have disastrous results. What happens when the forbidden fantasies within some disturbed individuals gain form in the worlds of virtual reality, and the sensations cultivated in cyberspace leak out into and become confused with daily life? Is this question relevant to understanding what happened with Heaven's Gate (see Robinson 1997), or even more the high school shootings in Littleton, Colorado, which raised a furore over the negative influence of violent video games and web sites dedicated to Nazism, the construction of bombs, and so on?

CONCLUDING REMARKS

It is difficult to form a clear picture of either the future of religion on the Internet or the impact of the Internet on religion -- its ideas, forms, practices, and social significance. We simply do not know enough about such crucial issues as the creation and maintenance of communities in cyberspace or the social and psychological implications of prolonged exposure to life in cyberspace. With growing interest in these and other related issues, it appears that worthwhile research has begun and soon we will be reaping the benefits. At present, however, it is far less clear that any specific research of note is being done on religion and the Internet. With things moving so rapidly in the

socialogy of computer-mediated communication, though, these words may be dated by the time they appear in print. All the same, the significance of everything said in this essay, like all of the rhetoric and analyses induced by the advent of the net, is qualified by one overriding fact: cyberspace is still largely the preserve of a small elite. Everything said must be placed in a larger context, the one Mel Watkins (1995, 9-10) sums up with the following quip :

> In today's "global village," half of the world's population has never made a phone call, much less one between countries or continents. In this "information age," only 20 percent of the world's population have telephones -- to say nothing of fax machines, E-mail, etc. In this "jet age" (actually, that term already sounds archaic), only 10 percent of Americans (to say nothing of Chinese, Indians, Africans, etc.) have passports.

The really significant religious phenomenon in our world will continue to be essentially premodern, let alone postmodern, in their form and functioning, and for some time to come. But from now on every new religious movement of any significance will have a presence on the Internet, and probably well before we are aware it is of any significance. The Internet will be a crucial forum for the promotion of religious change, innovation, conflict, and dialogue, and it would be useful to have a better grasp of the intrinsic effects of this medium on our social and religious life.

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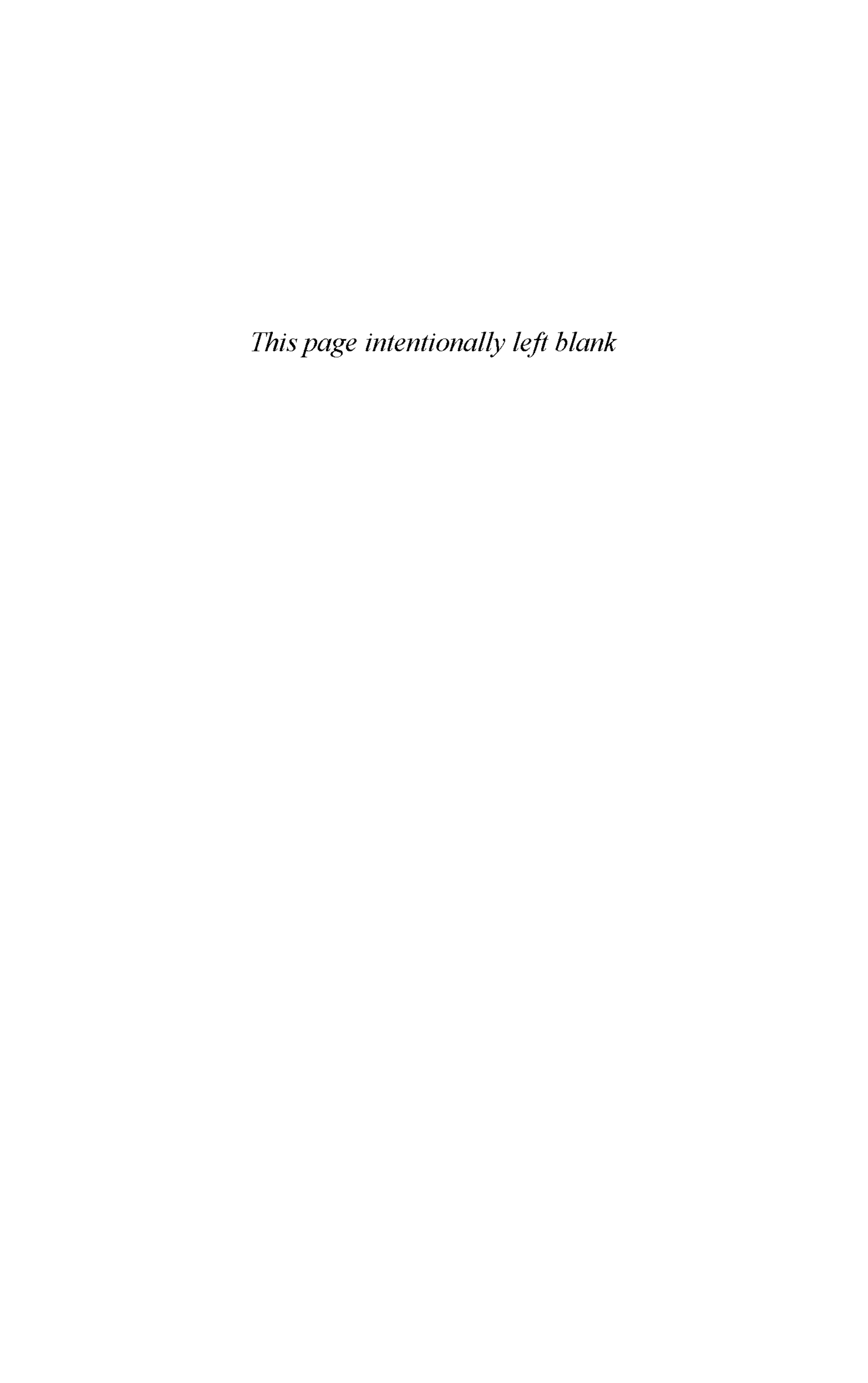
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DEUXIÈME PARTIE / PART II

MONDE VÉCU, SCANDALE PUBLIC

PERSONAL EXPERIENCE, PUBLIC CONTROVERSY



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LE FANTÔME DE LA LIBERTÉ : LES CONTROVERSES SUR LES « SECTES » ET LES NOUVEAUX MOUVEMENTS RELIGIEUX EN EUROPE

Massimo Introvigne

INTRODUCTION

Entre le 18 et le 19 novembre 1978 à Jonestown, dans la jungle de la Guyane, plus de neuf cents membres du Temple du Peuple, un mouvement fondé et dirigé par James Warren « Jim » Jones (1931-1978), trouvaient la mort, en partie suicidés par empoisonnement, en partie tués par leurs coreligionnaires. Cet événement fit une énorme impression aux États-Unis. Les milieux anti-sectes - qui considèrent les nouveaux mouvements religieux comme nuisibles et dangereux - en profitèrent pour déchaîner une campagne médiatique et judiciaire contre ceux qu'ils appelaient «*cults*» ou «sectes», qui fut d'une intensité considérable pendant environ quinze ans[1]. Entre le 4 et le 5 octobre 1994, cinquante-trois personnes, qui faisaient partie (ou étaient les enfants des membres) de l'Ordre du Temple Solaire, furent trouvées mortes au Québec et en Suisse. Le suicide-homicide se répéta un an plus tard, le 23 décembre 1995, avec seize morts dans le Vercors, en France, et encore en mars 1997 à Saint-Casimir, au Québec. L'épisode du Temple Solaire a eu - seize ans plus tard - un rôle comparable en Europe à celui de Jonestown aux États-Unis. Les campagnes des mouvements anti-sectes se sont intensifiées et ont impliqué parlements et gouvernements, produisant deux rapports parlementaires discutés et discutables en France[2] ; la création dans ce même pays - entre autres mesures - d'un « Observatoire » permanent, suivi par une Mission interministérielle de lutte contre les sectes ; des commissions parlementaires semblables à celle de la France en Belgique et ailleurs (même si, en dehors de la francophonie, les rapports sont souvent bien plus modérés) ; et la publication de petits livres clairement inspirés de l'attitude

et de la mentalité anti-sectes de la part d'agences gouvernementales dans divers pays européens. La liste des initiatives - même au niveau communautaire - pourrait facilement continuer. Enfin, au matin du 20 mars 1995, cinq bombes chimiques ont explosé dans le métro de Tokyo en diffusant du gaz sarin, causant en quelques minutes la mort de dix personnes et faisant plus de cinq mille blessés. Un groupe de dirigeants et de membres du nouveau mouvement religieux Aum Shinri-kyo a été accusé de l'attentat. L'épisode a eu au Japon - pays où les campagnes anti-sectes étaient déjà particulièrement virulentes - un rôle encore plus crucial que celui du Temple du Peuple en Guyane et du Temple Solaire en Europe. L'authentique « chasse aux sectes » qui s'est déchaînée au Japon a dépassé dans ses proportions tout précédent américain et européen. Les spécialistes universitaires des nouveaux mouvements religieux en ont particulièrement fait les frais. Certains ont été accusés d'être « amis des sectes » et soumis, dans quelques cas, à de véritables formes de persécution.

Les trois épisodes ont certainement quelque chose en commun. Dans les trois cas il y a, avant tout, un nouveau mouvement religieux qui - sans étendre, évidemment, un jugement de valeur négatif à tous ses membres individuels - compte, parmi ses dirigeants, des personnages qu'il est parfaitement légitime de définir comme criminels et assassins. Dans les trois cas il s'agit de groupes atypiques, dans lesquels on ne rencontre pas les caractéristiques les plus communes à la majorité des nouveaux mouvements religieux, même controversés. Le Temple du Peuple - qui, avant tout, n'était pas un nouveau mouvement religieux autonome, mais un groupe actif au sein d'une dénomination protestante respectée, les Disciples du Christ - avait des caractéristiques plus politiques que religieuses. Selon son spécialiste le plus renommé, le professeur John R. Hall, il était si « figé dans une orientation lénino-staliniste[3] » qu'il pouvait être défini comme « une tromperie fondée sur l'usage de la religion pour promouvoir le socialisme[4] ». L'Ordre du Temple Solaire était une organisation initiatique, composée en grande partie de personnes de la haute et très haute bourgeoisie, qui unissait au mythe de la continuation secrète de l'Ordre du Temple une prospective apocalyptique, inhabituelle dans les milieux initiatiques. Sa composition sociale n'est certainement pas, à son tour, habituelle dans les nouveaux mouvements religieux[5]. Quant à Aum Shinri-kyo - dont, il faut le rappeler, moins d'une centaine de membres sur plus de dix mille sont accusés d'avoir été au courant des activités criminelles d'une partie de la direction - l'implication de quelques dirigeants dans le trafic de drogue et la violence organisée représente un

unicum. Aucun des très nombreux autres nouveaux mouvements religieux japonais n'a jamais été, d'aucune façon, impliqué par des accusations de ce genre[6]. Dans les trois cas la nature manifestement atypique des mouvements impliqués a été transformée, dans certaines présentations à l'opinion publique, en un caractère supposé typique, comme s'il s'agissait d'exemples caractéristiques de « sectes » ou de « cultes ». Les mouvements anti-sectes - qui, naturellement, existaient déjà avant ces tragédies - ont exploité les événements pour atteindre leurs fins[7]. Aux États-Unis la grande campagne anti-sectes commencée après Jonestown s'est lentement épuisée et a aujourd'hui perdu de sa vigueur (même si elle n'a pas disparu). Par contre, il ne semble pas que le suicide des membres du mouvement Heaven's Gate, en mars 1997 en Californie, ait relancé le mouvement anti-sectes : le débat a porté plutôt sur l'existence d'un prétendu « droit au suicide ».

Considérant l'effet de typification produit au Japon - où sont en cours des événements qui ne peuvent que préoccuper quiconque a à cœur la liberté religieuse -, il n'est pas certain qu'en Europe la ferveur anti-sectes finisse par s'éteindre lentement, comme cela s'est produit aux États-Unis. La problématique relative aux dites « sectes » - un terme grandement péjoratif et, comme tel, presque abandonné dans le langage universitaire qui préfère parler de « nouveaux mouvements religieux » ou de « minorités religieuses[8] » - se relie en fait à des questions à caractère éthique, politique et philosophique qui sont parmi les plus importantes de nos jours. Il n'est pas rhétorique d'affirmer qu'il s'agit de problèmes dont dépend en grande partie le futur même de la liberté en Europe. C'est sur ces problèmes - plus que sur des cas ou épisodes spécifiques - que je voudrais m'arrêter dans cet exposé, en examinant trois « dimensions » de la liberté, et les risques dont chacune est menacée.

1. La liberté religieuse et l'équivoque de l'« ordre public »

À l'exclusion des rares États communistes ayant survécu et des États islamiques, plus nombreux, le modèle d'État auquel nous nous trouvons confrontés aujourd'hui est l'État laïque moderne. Cet État n'est pas confessionnel et reconnaît la liberté religieuse, du reste consacrée dans diverses déclarations internationales des droits de l'homme. Il est évident pour tous que la liberté religieuse ne peut être sans limite. Si, au nom de la liberté religieuse, quelqu'un proposait de restaurer une des religions précolombiennes fondées sur le sacrifice humain et commençait à

sélectionner des victimes involontaires - ou même volontaires - pour les sacrifier sur la place, bien peu de gens justifieraient ses actions[9]. Ayant établi que la liberté religieuse n'est pas sans limite, il faut se demander sur la base de quels paramètres ses limites doivent être déterminées. Le problème n'est pas banal et diverses philosophies s'opposent. Selon le positivisme juridique classique, la liberté religieuse trouverait sa limite dans l'« ordre public ». Cette position trouve un écho dans les récentes controverses en matière de « sectes », et les « troubles à l'ordre public » sont l'un des critères qui - selon le premier rapport parlementaire français (1996) - permettrait de distinguer les « sectes » dangereuses des organisations religieuses normales, non dangereuses[10]. Affirmer que la liberté religieuse trouve sa limite dans l'ordre public peut sembler raisonnable, mais tout dépend de la définition de l'« ordre public ». En fait, même s'il ne manque pas de tentatives de proposer d'autres définitions (souvent assez vagues), la définition la plus courante se réfère à l'ensemble des lois de l'État, particulièrement de nature pénale et administrative, ou aux principes généraux qui découlent de ces lois. Affirmer que la liberté religieuse trouve sa limite dans l'ordre public équivaut, ainsi, à soutenir que les limites sont celles du système des lois en vigueur. De ce point de vue même Néron, Hitler ou Staline auraient facilement pu déclarer leur plein respect pour la liberté religieuse. Néron, en effet, n'empêchait pas les chrétiens de penser ce qu'ils voulaient. Il frappait seulement - sévèrement - les manifestations extérieures du culte et d'autres comportements, comme le refus d'adorer l'empereur, qui constituaient, précisément, des violations des lois en vigueur[11].

Toutefois le récent *Catéchisme* de l'Église catholique, n° 2109, refuse le paramètre de l'« ordre public » pour définir les limites de la liberté religieuse. « Le droit à la liberté religieuse - selon le *Catéchisme* - ne peut être [...] simplement limité par un 'ordre public' conçu de manière positiviste ou naturaliste[12] ». Bien entendu, une idée de l' « ordre public » qui ne serait pas « conçu de manière positiviste ou naturaliste» pourrait être plus acceptable. Mais, malheureusement, les théories plus répandues de l'« ordre public » sont précisément de souche positiviste. Si, dans la dialectique entre la liberté religieuse et ce que même la doctrine sociale catholique appelle ses « justes limites[13] », ces dernières sont représentées par l'« ordre public », le futur de la liberté religieuse est pour le moins incertain. Peu à peu - surtout dans un climat social caractérisé par la présence de forces hostiles à la religion - l'« ordre public » prévaut sur la liberté religieuse en la transformant en un fantôme sans corps et sans consistance. Contre le positivisme juridique, on doit affirmer que la liberté

religieuse n'est pas un simple « résidu » circonscrit par les législations en vigueur, mais est l'un des principes fondamentaux et non négociables que les normes doivent respecter pour être des lois authentiques et non des formes d'injustice légalisée.

De façon idéale - selon les principes de la doctrine sociale catholique - les « justes limites » de la liberté religieuse ne devraient pas être déduites de l'« ordre public », mais plutôt « déterminées pour chaque situation sociale par la prudence politique, selon les exigences du bien commun, et ratifiées par l'autorité civile selon 'des règles juridiques conformes à l'ordre moral objectif' (*Conc. Ecum. Vat II, Dignitatis Humanae*, 7)[14] ». Les paramètres de « bien commun » et d'« ordre moral objectif » trouvent difficilement dans la société contemporaine un niveau suffisant de consensus social pour se traduire en normes juridiques. Toutefois - même sans la reconnaissance explicite de l'« ordre moral objectif » (qui reste de toute façon un idéal sur lequel celui qui s'inspire de la doctrine sociale chrétienne pourra insister) -, il est possible d'échapper au piège de l'« ordre public ».

L'expérience juridique américaine - certainement plus riche que l'expérience européenne en matière de liberté religieuse - offre, de ce point de vue, un exemple intéressant. De la Seconde Guerre mondiale aux premières années 1970, la Cour Suprême des États-Unis a lentement élaboré le principe du *compelling interest*, l'« intérêt impératif » de l'État. Le gouvernement peut limiter l'exercice de la liberté religieuse seulement lorsqu'il a un « intérêt impératif » à le faire, et lorsqu'un tel intérêt ne peut être satisfait par des alternatives raisonnables. La définition la plus importante du *compelling interest* est contenue dans le jugement *Sherbert* de 1963[15]. En effet, la Cour Suprême a confirmé le droit d'une femme adventiste du Septième Jour de recevoir une allocation de chômage, bien que divers emplois lui aient été offerts, ceux-ci la contraignant à travailler le samedi, pratique interdite par sa foi. Dans ce cas, la Cour Suprême a retenu qu'il n'y avait aucun « intérêt impératif » de l'État à ne pas payer l'allocation de chômage à qui refuse des emplois particuliers sur le fondement d'une interprétation raisonnable de sa propre foi religieuse. Le jugement *Sherbert* démontre que les tribunaux n'utilisent pas la séparation rigide entre *creed* et *deed*, entre « croyance » et « comportement », qui, dans la lignée de vieilles conceptions positivistes, caractérise l'idéologie des mouvements anti-sectes. Selon cette idéologie, le comportement (*deed*) pourrait être analysé en faisant totalement abstraction de la croyance (*creed*). Nous reviendrons sur le manque de fondement de cette

thèse dans le paragraphe suivant. Pour le moment, il suffit de noter que, déjà dans le jugement *Sherbert*, cette présumée séparation n'est pas appliquée. Celui qui refuse des obligations qui le contraignent à travailler le samedi simplement parce que la veille du dimanche est un jour qu'il préfère dédier à des activités plus agréables perd, selon la loi, l'allocation de chômage. Mais celui qui refuse les mêmes emplois parce qu'il est un adventiste du Septième Jour et que le samedi est pour lui un jour sacré ne perd pas l'allocation de chômage. Dans ce cas, un même comportement, inspiré par une croyance, trouve sa protection dans le principe supérieur de la liberté religieuse.

La doctrine du *compelling interest* est encore plus claire dans son refus de séparation rigide entre *deed* et *creed* dans le jugement *Yoder* de 1972[16]. La Cour Suprême des États-Unis a acquitté des parents de la communauté Amish qui, sur la base de leur foi religieuse, refusaient d'envoyer leurs enfants à l'école de l'État après la huitième année. Dans ce cas les juges ont reconnu qu'il existe un « intérêt impératif » de l'État à la scolarisation obligatoire. Ils ont conclu que - particulièrement après la huitième année du système américain - cet intérêt peut être satisfait par des moyens alternatifs à la fréquentation des écoles d'État, par exemple par la vérification plus générale du parcours formateur des Amish qui tient compte de l'« unicité de leur foi ». Même dans ce cas, si un parent ne s'appuyant sur aucune foi avait, après la huitième année, retiré son fils de l'école, préférant l'envoyer travailler, il aurait été condamné à la prison. Si, au contraire, ce parent est un Amish, et que le retrait des enfants des écoles de l'État s'inscrit dans une culture religieuse unique et particulière, sa conduite n'est pas punissable.

Dans les années 1980 et 1990, la doctrine du *compelling interest* est entrée en crise. Les tentatives de la Cour Suprême - toujours plus hostile à la religion en général - pour éroder la liberté religieuse se sont écartées du *compelling interest* pour revenir à un principe similaire à celui de l'« ordre public ». Ces tentatives ont culminé dans le jugement *Smith* de 1990[17], où la Cour Suprême a jugé licite le licenciement de fonctionnaires publics qui participaient aux rites de la Native American Church, durant lesquels on absorbe de façon rituelle une drogue appelée peyote. Le jugement *Smith* a d'autre part provoqué les protestations de l'immense majorité des dénominations religieuses présentes aux États-Unis, ce qui a conduit le Congrès à voter le *Religious Freedom Restoration Act*. Cette loi, signée par le président Clinton en 1993, a été frappée à son tour d'une déclaration de non-conformité à la Constitution par la même Cour Suprême. Elle aurait obligé les tribunaux à appliquer le principe du *compelling interest*

dans tous les cas où on doit juger les limites à l'exercice de la liberté religieuse.

La doctrine du *compelling interest* n'est certainement pas la solution définitive et universelle au problème des limites de la liberté religieuse. Ce n'est pas par hasard que l'Église catholique a longuement hésité avant de soutenir - comme elle l'a fait par la suite - le *Religious Freedom Restoration Act.* On pourrait en fait argumenter que l'État a un « intérêt impératif » à connaître les secrets des tueurs de la mafia révélés aux prêtres catholiques dans le secret de la confession. Il ne s'agit pas d'un problème uniquement théorique, car, sur la base de cas concrets, de vives discussions sont en cours aux États-Unis et en Italie. On pourrait ainsi - par exemple - placer des micros dans les églises et les confessionnaux. Cet exemple démontre que, dans certains cas, le principe de l'« intérêt impératif » ne constitue pas une protection suffisante pour la liberté religieuse. De façon idéale, il serait souhaitable que l'État reconnaisse qu'il existe une sphère de liberté religieuse intangible et sacrée - qui, dans le cas de l'Église catholique, comprend certainement le secret du confessionnal - qu'aucun « intérêt impératif » ne peut dépasser. Il est difficile pour l'État moderne de reconnaître les fondements moraux et religieux de ce principe. La doctrine du *compelling interest* - accompagnée d'un contexte constitutionnel de sauvegarde de la liberté religieuse - est certainement préférable aux références ambiguës à l'« ordre public ». D'autre part, les diverses dimensions de la liberté ne sont pas indépendantes l'une de l'autre. Le problème des limites de la liberté religieuse - soumises à un test particulièrement sévère dans le cas des « sectes »- demande aussi d'autres recherches, non moins importantes, au sujet de la liberté.

2. Le conflit entre les récits et la liberté face aux récits

Les étudiants universitaires, tout particulièrement en sociologie, ont un privilège qu'ils devraient apprécier. Chaque jour leur attention est attirée sur le problème du conflit entre les récits. Cela devrait leur permettre de conquérir la plus rare des libertés, celle d'échapper à l'imprimé et aux manipulations - volontaires ou involontaires - des moyens de communication. Dans ses termes les plus simples, le problème du conflit entre les récits est évident. Trois personnes assistent à un accident de la route : lorsqu'il s'agira de témoigner, chacun le racontera de façons diverses. Quatre journaux donnent une information de la même

manifestation politique : si on les met l'un à côté de l'autre, il semble qu'il s'agisse de manifestations différentes. Les journaux ne sont pas d'accord entre eux sur le nombre de participants, sur le succès de la manifestation, sur la capacité des orateurs à s'exprimer de façon plus ou moins brillante. Le problème du conflit entre les récits est très complexe et va au-delà de l'observation banale selon laquelle les journalistes - lorsqu'ils relatent des événements politiques - sont conditionnés par leurs propres opinions. Pour en comprendre exactement les dimensions, nous devons parcourir un itinéraire qui prévoit quatre passages.

2.1 D'abord - c'est le passage le plus évident - le langage humain est polysémique, malléable et permet d'affirmer la même chose avec des accentuations diverses. Si, en Italie, il y a environ 600 000 membres appartenant à de nouveaux mouvements religieux au sens strict, on pourra donner la nouvelle en déclarant que les membres des « sectes » en Italie sont *quand même* au nombre de 600 000 ou, au contraire, *seulement* 600 000 (un peu plus d'un pour cent de la population). Comme chacun le sait, un critique de théâtre, selon l'attitude et l'humeur, peut définir le même théâtre « à moitié plein » ou bien « à moitié vide ». L'exemple du théâtre est plus simple que celui relatif aux adhérents des nouveaux mouvements religieux, où un grand nombre de facteurs peuvent influencer le choix du langage. Un adversaire des « sectes », par exemple, pourra avoir intérêt, dans un certain contexte, à alarmer la société en présentant le nombre des adhérents comme extrêmement significatif et menaçant. Dans un autre contexte, il préférera attirer l'attention sur le caractère relativement modeste des mêmes chiffres pour démontrer que le public ne trouve pas les « sectes » crédibles et les condamne à l'échec. Le choix même des mots - qui deviennent facilement vecteurs d'émotions profondes - n'est pas neutre. Si l'on veut passer d'un langage neutre ou calme à un langage émotif, on parlera plutôt d'« adeptes » ou de « victimes » des « sectes » que de « membres » de « nouveaux mouvements religieux » ou de « minorités religieuses ».

2.2 Dans le premier passage, le conflit entre les récits s'est manifesté sous sa forme la plus simple. Les agents sociaux qui produisent les récits diffusent en substance le même récit (la moitié des sièges d'un théâtre était occupée ; les membres appartenant aux nouveaux mouvements religieux en Italie sont 600 000). Ils cherchent seulement à susciter chez les récepteurs des réactions diverses, en modulant de façon opportune le langage. La situation est différente si nous lisons dans un journal que

30 000 personnes ont participé à une manifestation et dans un autre que les participants étaient au nombre d'un million. L'exemple n'est pas théorique, si l'on pense simplement aux manifestations politiques. Ainsi, nous pouvons lire des chiffres qui circulent à propos - par exemple - des satanistes de la ville italienne de Turin, dont la réputation est plutôt sulfureuse dans ce domaine. Selon les spécialistes, ils sont moins de 200 ; selon certains articles de presse, des dizaines de milliers. Il est désormais confirmé que le nombre de 40 000 satanistes turinois qui a été avancé provient d'un poisson d'avril à succès, organisé il y a plusieurs années par un groupe d'étudiants plaisantins ; de façon paradoxale, l'incroyable chiffre est souvent répété aujourd'hui encore. Nous commençons ici à nous approcher des dimensions plus profondes du conflit entre les récits. Un examen des récits en termes de « vrai » et de « faux » n'est pas, naturellement, insignifiant. Dans le cas classique des participants à une manifestation politique, celui qui l'organise a évidemment intérêt à augmenter le nombre des présents, tandis que ses adversaires politiques ont de bonnes raisons de le diminuer. Il ne s'agit pas, toutefois, de l'unique élément qui entre en jeu. Il est possible, par exemple, que les termes n'aient pas été définis exactement : parmi les « participants » à la manifestation, doit-on compter les simples curieux qui - pour ainsi dire - passaient là par hasard? Comment définir précisément les membres des « sectes » ou « nouveaux mouvements religieux » ? Lorsque l'on compte les Témoins de Jéhovah, s'agit-il seulement des « proclamateurs » qui vont de porte en porte ou de toute la communauté, y compris les enfants? En outre - même si nous sommes d'accord sur les définitions - les instruments avec lesquels sont relevées les données influencent les résultats. Les sociologues connaissent bien cette problématique, parce qu'ils travaillent souvent au moyen de questionnaires. Quel est le nombre d'Italiens qui croient en la réincarnation? Si l'on pose la question sous forme « fermée » - comme on l'a fait lors d'une récente enquête - en demandant de choisir de façon univoque entre réincarnation et résurrection chrétienne - le nombre d'Italiens croyant en la réincarnation s'élève seulement à 4 %[18]. Au contraire, si la question est posée de façon « ouverte » et que la personne interrogée peut répondre en affirmant croire *soit* en la réincarnation *soit* en la résurrection chrétienne, le pourcentage s'élève à plus de 20 %, en Italie comme dans de nombreux autres pays européens[19]. Les sciences physico-mathématiques savent depuis de nombreuses années que le point de vue de l'observateur influence les résultats de l'observation. Ceci est vrai pour les sciences sociales également.

2.3 Il est nécessaire d'accomplir un troisième pas dans notre itinéraire. Jusqu'à maintenant nous avons examiné des récits très simples qui répondent à la question «Combien ?» («Combien de personnes ont participé à la manifestation?», «Combien y a-t-il de Témoins de Jéhovah en Italie? », et ainsi de suite). Le conflit entre les récits devient beaucoup plus complexe lorsqu'on y ajoute des éléments de type qualitatif. Si, de la question « Combien sont les Témoins de Jéhovah?», on passe à des questions telles que « À quoi croient les Témoins de Jéhovah?», «Quelle est l'expérience quotidienne des Témoins de Jéhovah?», tout type de réponse se présente sous forme d'un récit qui doit synthétiser un grand nombre d'observations. Comme on l'a vu, même la réponse à une simple question à caractère purement quantitatif est influencée par le point de vue de l'observateur. Les réponses à des questions complexes ne sont pas des produits sociaux simples. Elles sont conditionnées par un grand nombre de variantes qui se réfèrent soit à l'observateur et à ses capacités, à ses motivations, à ses préjugés, soit au contexte social dans lequel il est en train d'opérer. Elles dépendent aussi du nombre et du type d'observations qu'il a réussi à effectuer. Évidemment, aucun spécialiste des Témoins de Jéhovah ne connaît les dix millions de membres de ce mouvement dans le monde, et encore moins leurs opinions personnelles et individuelles. Certes, pour savoir ce que pense un mouvement religieux on pourra faire référence à sa littérature « officielle ». Mais, très souvent, à côté de la littérature publique il en existe une non-publique (surtout dans les mouvements qui présentent des éléments de type initiatique ou ésotérique). Il arrive aussi que l'expérience religieuse quotidienne soit influencée par des facteurs divers et s'éloigne de façon notable des principes contenus dans les écritures sacrées qui remontent souvent aux siècles passés. Pour connaître l'expérience religieuse quotidienne d'une dénomination chrétienne de nos jours, la lecture de l'Évangile ne suffit certainement pas. En d'autres mots, les récits de phénomènes complexes - comme le sont, par exemple, les mouvements religieux contemporains - ne sont pas des « photographies », mais des constructions sociales articulées, conditionnées culturellement et négociées politiquement. Le problème est connu des historiens, qui savent - pour reprendre le titre d'une oeuvre particulièrement influente de Peter Novick, publiée en 1988 - que l'histoire « objective » est un « noble rêve » qui repose sur un préjugé de caractère objectiviste. Peter Novick n'est pas un relativiste : pour lui, les faits historiques existent, c'est l'historiographie qui se présente comme un produit social conditionné par une multiplicité de facteurs[20].

Même en ce qui concerne le problème du conflit entre les récits, le mouvement anti-sectes pense que la solution réside dans la vieille distinction entre *creed* et *deed*. On devrait donc faire une distinction entre croyance (dont la reconstruction serait toujours incertaine et subjective) et comportement (qui pourrait au contraire être « photographié » et décrit de façon certaine). En réalité, comme nous avons déjà pu le vérifier à propos de la problématique juridique relative à la liberté religieuse, cette distinction est impossible. Les tribunaux, les gouvernements, les lecteurs de journaux ne se trouvent pas face à des comportements « purs » (même dans l'hypothèse que ceux-ci existent). Ils rencontrent des récits complexes qui naissent de la dialectique entre l'observation d'un comportement et les variables infinies qui conditionnent le point de vue de l'observateur. D'autre part, il est impossible de comprendre un comportement sans le lire dans le contexte de tendances, de motivations, de croyances et de préliminaires qui l'inspirent. Dans *Le Vampire du Sussex*, Sherlock Holmes - et les lecteurs - se trouvent face à des récits dont l'objet est une femme que l'on a vue sucer le sang de son fils. Si le célèbre détective érigeait - comme les sots qui l'entourent dans le récit - une muraille infranchissable entre le comportement et son contexte, entre *deed* et *creed*, et déclarait ne s'intéresser qu'au premier, il ferait rapidement arrêter la femme comme mère dénaturée se livrant à des pratiques abominables de vampirisme. Mais Sherlock Holmes procède de façon diverse. Il enquête, replace le comportement dans son contexte et découvre que la mère a sucé le sang de son fils pour l'empêcher de mourir empoisonné. En outre, elle n'a pas expliqué ses actions pour ne pas compromettre l'empoisonneur, un autre membre de la famille[21]. Il n'aurait pas suffit d'affirmer - comme le ferait un positiviste « modéré » - que, lorsque l'on examine les comportements, il faut aussi tenir compte de leurs motivations. En fait, le positivisme devrait nous expliquer comment il pense pouvoir connaître les motivations ; pour le croyant, seul Dieu connaît vraiment les secrets des coeurs, pour le positiviste ils sont - à la rigueur - inconnaissables. En deuxième lieu l'expression « motivations » n'est pas suffisante pour indiquer tout ce qui entoure un geste ou un comportement. L'histoire du vampire du Sussex présente une structure relativement simple si on la compare aux récits qui devraient nous transmettre la signification globale des activités d'un groupe social ou d'un mouvement religieux. Dans l'aventure de Sherlock Holmes le problème ne consiste pas uniquement dans le fait que la femme, en suçant le sang de son fils, cherche à le sauver et non à lui nuire. En enquêtant sur

les relations familiales de cette femme, l'enquêteur découvre pourquoi elle a choisi une façon discrète de sauver son fils, plutôt que de chercher de l'aide ailleurs, et l'héritage ethnique sud-américain de la pauvre mère permet à Sherlock Holmes de comprendre pourquoi elle a utilisé ce moyen si original pour résoudre une situation critique.

L'histoire du vampire du Sussex est une affaire judiciaire hypothétique et littéraire, mais les choses ne sont pas si différentes dans les vrais tribunaux. Dans l'affaire *Yoder* en 1972, la Cour Suprême américaine ne s'est pas limitée à se demander pourquoi les parents Amish n'envoyaient pas leurs enfants à l'école obligatoire pendant les dernières années. Elle a replacé leur comportement dans le contexte plus large des « caractéristiques uniques de la foi Amish ». Dans ce cas - comme dans d'autres décisions de la Cour Suprême des États-Unis s'appuyant sur le principe du *compelling interest* - nous n'avons ni une séparation rigide entre *deed* et *creed* ni une simple enquête sur les motifs. Nous nous trouvons face au choix d'un récit - parmi d'autres possibles - qui, replacé dans un contexte complexe, permet de considérer comme étant licite un comportement qui, dans l'abstrait, serait illicite. Dans d'autres pays que les États-Unis, cette façon de procéder est quasi inexistante. Mais personne ne peut sérieusement nier que les décisions des tribunaux ne répondent pas mécaniquement à des « photographies » univoques de comportements, comme pourrait le faire un ordinateur. Elles proviennent d'un choix entre les divers récits qui sont présentés aux juges dans une situation fortement influencée par des conditionnements culturels, sociaux et politiques. En matière de nouveaux mouvements religieux, il y a, aux États-Unis, une conscience plus grande - par rapport à l'Europe et au Japon - de la complexité extrême des problèmes qui concernent la religion. Dans le système judiciaire américain les « témoins experts » (*expert witnesses*) cités par les parties permettent aux juges (et aux jurys là où ils sont présents) de se trouver face à un grand nombre de récits divers. Ils sont tenus naturellement, de déclarer s'ils reçoivent des honoraires et de qui, et de respecter les règles déontologiques de leur profession. Une cour qui doit se prononcer, par exemple, sur la Scientologie écoutera ainsi - sur les mêmes activités - les comptes rendus de membres satisfaits, de militants des mouvements anti-sectes, d'ex-membres hostiles, de psychiatres d'orientations diverses, de spécialistes universitaires et ainsi de suite. La même chose se produit normalement à l'occasion d'enquêtes parlementaires, comme celle faite récemment sur les événements de Waco. Les pouvoirs publics et les tribunaux - qui n'ont pas forcément une compétence spécifique en matière de mouvements religieux - pourront

s'approcher d'une compréhension (toujours difficile et élusive) de ces phénomènes en jouant le rôle de médiateurs entre les divers récits.

En Europe, la situation est beaucoup plus confuse. La principale critique méthodologique que l'on peut faire au rapport parlementaire français de 1996, *Les Sectes en France*, est précisément celle de n'avoir pas joué un rôle de médiateur entre les récits de faits dont les membres de la commission ne pouvaient avoir une connaissance directe. Le rapport a, au contraire, privilégié les récits des ex-membres hostiles et des militants anti-sectes, sur lesquels le document est fondé presque exclusivement. Selon une critique fréquente, et jamais démentie, concernant la liste des témoins entendus par la commission - d'ailleurs en secret - pas un seul spécialiste universitaire en sciences religieuses[22] n'en faisait partie. La même chose risque de se produire dans d'autres contextes européens et cela se vérifie même dans les tribunaux.

En effet, nous en avons un exemple particulièrement intéressant dans le procès d'un groupe de Scientologues qui a eu lieu à Lyon en octobre 1996. Dans l'abstrait, on pourrait retenir de ce procès - selon un modèle plus français qu'américain - qu'il aurait dû s'occuper exclusivement des délits spécifiques dont étaient accusés quelques Scientologues et non de la Scientologie en général. Toutefois, si on lit le jugement (confirmé par la suite dans la substance, mais avec des nuances dans les motivations, en appel et en Cassation) - dont il ne m'appartient pas de discuter ici du mérite en ce qui concerne la responsabilité à titre particulier des personnes jugées -, on s'aperçoit qu'il n'en est pas du tout ainsi. Ce jugement[23] comprend un large « chapitre II » où sont reconstruites la doctrine et les « techniques » de la Scientologie. Le tribunal de Lyon - qui affirme, en gras, que la liberté religieuse trouve ses limites « dans l'intérêt de l'ordre public[24] », et dont les juges ne sont pas, évidemment, spécialistes des nouveaux mouvements religieux - a, bien sûr, cité largement une publication de la Scientologie elle-même. Mais il a reconstruit la nature et le fonctionnement du mouvement en utilisant presque exclusivement - entre les divers récits possibles - ceux qui provenaient de deux sources : les ex-membres hostiles et les militants anti-sectes. Le jugement cite largement l'expertise d'un psychiatre français qui est l'un des militants anti-sectes les plus actifs du pays. Il ne s'abstient pas de se référer au rapport parlementaire *Les Sectes en France* pour conclure que la Scientologie « présente les caractéristiques retenues par la Commission [parlementaire] pour lui attribuer ce qualificatif [de secte][25] ». Le tribunal de Lyon ne s'est absolument pas limité à examiner les délits particuliers

dont étaient accusés ces quelques Scientologues, mais - et il aurait difficilement pu faire autrement - il a inséré ces « comportements » dans un contexte qui implique une évaluation globale de la Scientologie. Dans l'abstrait, il aurait été possible de parvenir à cette évaluation par la méthode de la médiation entre les récits. La défense de la Scientologie avait appelé comme témoins quelques éminents sociologues européens, spécialistes parmi les plus fameux des nouveaux mouvements religieux - comme les professeurs Bryan Wilson et Karel Dobbelaere -, ainsi que le soussigné. Mais le climat juridique et culturel français est bien différent du climat américain, où, dans un procès semblable, la confrontation entre les récits aurait été le thème central, de sorte que l'audition de spécialistes universitaires serait allée de soi. La tentative des spécialistes en sciences sociales d'offrir un récit différent par rapport à celui des militants anti-sectes ou des ex-membres hostiles a été attaquée par la presse comme s'il s'était agi d'une prise de position acritique en faveur de la Scientologie (même si les chercheurs entendus comme témoins ont déclaré être personnellement en désaccord avec les doctrines et les pratiques du mouvement)[26]. Le tribunal a considéré ces témoignages comme insignifiants, ne les mentionnant même pas dans le jugement.

Il est nécessaire ici d'éviter des équivoques dans lesquelles il est facile de tomber. D'abord, les spécialistes universitaires ne prétendent pas du tout avoir le monopole du savoir en matière de nouveaux mouvements religieux. Les sociologues, en particulier, sont certainement capables de s'appliquer à eux-mêmes leur méthode, et d'« examiner leur fonction propre dans le processus de construction du savoir en matière de nouveaux mouvements religieux du point de vue de la sociologie de la connaissance[27] ». Les spécialistes universitaires constituent, dans leur ensemble (et sans négliger le fait que dans leur monde coexistent des opinions diverses), une des agences qui produisent des récits en matière de nouveaux mouvements religieux. Leurs théories sont certainement conditionnées culturellement, ne serait-ce que par le désir de « protéger leur propre domaine professionnel » contre les intrusions de militants amateurs qui proposent « une idéologie qui cherche à se cacher derrière un masque de science », ce qui dérange les universitaires[28]. Les récits des spécialistes universitaires qui observent et décrivent les nouveaux mouvements religieux avec un professionnalisme spécifique doivent être particulièrement pris en considération. De la même façon, en confrontant les divers récits concernant les problèmes dentaires, on retiendra comme particulièrement intéressante l'opinion des dentistes. Mais - dans un contexte où l'on tend souvent à insister sur le fait que même l'expert n'est

pas à l'abri de conditionnements culturels et professionnels - il serait certainement erroné de se fier uniquement aux récits qui proviennent des spécialistes universitaires en sciences religieuses (ces derniers n'ont d'ailleurs pas de prétentions monopolistiques de ce genre).

Mais il est encore plus erroné de confier un rôle privilégié - ou carrément exclusif - aux récits des ex-membres hostiles d'un mouvement religieux. Tout d'abord, les nouveaux mouvements religieux font l'objet d'un énorme « *turnover*». Ils ressemblent à de grandes gares où il y a toujours quelqu'un, parce que, si de nombreux voyageurs arrivent, d'autres s'en vont. Les ex-membres des nouveaux mouvements religieux se comptent donc par millions. On doit les étudier dans leur ensemble, sans se concentrer sur la petite minorité qui brûle les idoles qu'elle a un temps adorées et qui s'implique activement dans les mouvements anti-sectes. La majorité des personnes qui abandonne un nouveau mouvement religieux rentre tranquillement dans la société (ou se cherche une autre foi) sans entreprendre d'initiative polémique vis-à-vis du groupe qu'elle a quitté. Les ex-membres hostiles peuvent parfois offrir des récits intéressants (et leur itinéraire humain tourmenté mérite de toute façon le respect), mais ils ont évidemment de bonnes raisons pour expliquer à l'aide d'« histoires atroces » les choix passés qu'aujourd'hui ils jugent aberrants[29]. Cela relève du mythe de croire que les spécialistes universitaires en sciences religieuses se désintéressent des comptes rendus des ex-membres hostiles. Toutes les études monographiques de niveau universitaire sur tel ou tel mouvement en tiennent compte. Mais elles les traitent avec circonspection et ne les considèrent pas comme source privilégiée et unique. En réalité, tout spécialiste a interviewé, pendant sa carrière, des dizaines ou des centaines d'ex-membres des nouveaux mouvements religieux, certains encore prêts à exprimer de la sympathie pour le mouvement qu'ils avaient quitté, d'autres indifférents ou hostiles. Un des mythes les moins fondés qui sert de fond au conflit entre les récits en matière de nouveaux mouvements religieux est celui selon lequel les spécialistes universitaires en auraient une expérience « théorique », alors que les activistes anti-sectes en auraient un savoir « pratique » et finalement plus utile. Il n'en est rien. Les chercheurs universitaires - s'ils sont d'authentiques spécialistes de ce secteur - ont normalement interviewé des centaines de personnes, soit parmi les membres, soit parmi les ex-membres, et ont même passé quelque temps à l'intérieur des mouvements. Les informations des activistes anti-sectes, au contraire, proviennent presque exclusivement des

ex-membres, des textes écrits (et parfois de quelque observation rapide, sous de fausses apparences, en général peu productive).

De ce point de vue, l'expérience des spécialistes universitaires est beaucoup plus « pratique » que celle des activistes anti-sectes. Ces derniers objectent que l'observation participante ne sert à rien, parce que les « sectes » ne font voir au spécialiste ingénu que ce qu'elles veulent. Des commentaires de ce genre ne peuvent être formulés que par ceux qui ne savent pas ce qu'est l'observation participante. Certes, il existe des secrets de nature criminelle à l'intérieur de mouvements religieux (et non religieux) que l'observateur sociologique ne découvre pas. D'habitude l'activiste anti-sectes ne les découvre pas non plus, et ils ne sont pas connus de l'ex-membre hostile de bas niveau. C'est le cas des activités de quelques dirigeants de la Aum Shinri-kyo japonaise relativement au trafic de drogue et d'armes chimiques. Si l'on fait exception de ces cas limites, le spécialiste qui passe des semaines ou des mois à fréquenter régulièrement un mouvement en partage la vie et tisse un réseau de rapports personnels avec un certain nombre de membres (lesquels ne parlent pas nécessairement en termes positifs les uns des autres). Il finit par accumuler un nombre d'informations très vastes, et pas toutes favorables, sur le groupe qu'il observe. Citer un exemple personnel n'est sans doute pas de bon goût. Je me demande toutefois combien d'activistes anti-sectes connaissaient les pratiques de magie sexuelle de toute une série de groupes occultistes et satanistes avant de les avoir vues décrites dans mes volumes *Il cappello del mago* et *Indagine sul satanismo*. Ce sont des ouvrages dans lesquels ils puisent à pleines mains, en oubliant souvent de citer la source[30]. Je me demande également combien de détracteurs de La Famille - mouvement connu un temps sous le nom des Enfants de Dieu – auraient connu la dynamique exacte des pratiques sexuelles les plus controversées et aberrantes qui avaient cours chez les Enfants de Dieu il y a quelques années, s'ils n'avaient pas lu les études de J. Gordon Melton. Ces mêmes détracteurs critiquent J. Gordon Melton pour sa confiance (d'ailleurs confirmée par des jugements de tribunaux dans le monde entier) dans les réels changements qui se sont produits ces dernières années au sein de La Famille. Ces exemples ne démontrent-ils pas que le spécialiste - lequel a, naturellement, ses limites - voit, dans l'observation participante, ce qu'il est capable de voir et non pas seulement ce que le mouvement veut qu'il voie ? Certes, l'observation participante n'est pas une méthode qui permet de tout découvrir sur un mouvement : une telle méthode n'existe tout simplement pas. Mais, par l'observation participante, on acquiert, sur une réalité déterminée, un savoir beaucoup plus « pratique »

et complet que celui qui émerge d'une simple écoute des récits des ex-membres, ou de la simple lecture de sources écrites, bien que, par ailleurs, ces deux derniers éléments ne doivent pas être négligés.

2.4 Il y a, enfin, un quatrième pas qu'il est nécessaire de faire pour éviter des équivoques dangereuses. Il faut supposer que la réalité existe. L'idéalisme et le relativisme absolus sont des théories philosophiques qui ne peuvent servir de base aux sciences sociales[31]. La connaissance parfaite d'un phénomène complexe n'est pas accessible aux humains. Toutefois il est possible de construire des « modèles » ou des « figures » ou des « récits » qui ont un rapport plus ou moins acceptable d'analogie avec la réalité[32]. L'analogie (non pas une prétendue correspondance « photographique ») avec la réalité deviendra l'un des éléments pour évaluer le modèle, avec la fécondité scientifique, la capacité de clarifier et d'expliquer, la cohérence interne. Le relativiste absolu a - de façon paradoxale - raison lorsqu'il dénonce le caractère fallacieux de la perspective «naturalistique» selon laquelle il existerait un récit « vrai », capable de photographier parfaitement la réalité et d'établir avec le réel un rapport d'identité[33]. Le relativiste absolu, toutefois, a tort lorsqu'il laisse entendre que tous les récits sont de même valeur. Le savoir humain (et les exigences mêmes de la simple vie en commun entre humains) se fonde sur la recherche continue de récits, de modèles et de figures qui expliquent et clarifient mieux le phénomène auquel ils se réfèrent et dont le rapport d'analogie avec le réel est le moins loin possible de l'identité (qui, d'ailleurs, ne pourra jamais être rejointe).

Les récits ne naissent pas dans le vide : ce sont des constructions sociales continuellement négociées du point de vue culturel et, *lato sensu*, politique. La liberté face aux récits - laquelle enseigne à n'en prendre aucun pour argent comptant, même si le papier sur lequel il est imprimé semble digne de foi - constitue une grande richesse culturelle. Pour que cette liberté se reflète dans le domaine des religions minoritaires et soit garantie même sur le plan objectif, il est nécessaire que les pouvoirs publics - les agences du gouvernement, la magistrature, les parlements - aient, sur le terrain très délicat des nouveaux mouvements religieux, une fonction de médiateurs entre les différents récits. Cette fonction est trahie - et la liberté, dans ce cas, se réduit à une larve ou à un fantôme - si une commission parlementaire, un ministre ou un tribunal décident de faire leur, en le présentant comme « vrai », un des récits qui se confrontent et s'opposent, tout en ignorant les autres. C'est ce qui se passe lorsqu'une

agence gouvernementale, un groupe de parlementaires ou une cour de justice reconstruisent la problématique des nouveaux mouvements religieux en général - ou d'un mouvement en particulier - en se servant exclusivement (parfois de façon ostentatoire) du récit élaboré par les milieux anti-sectes et par les ex-membres hostiles, en ignorant ainsi les autres récits, qui proviennent de spécialistes universitaires, des ex-membres non hostiles et de ceux qui restent dans les mouvements en se déclarant satisfaits[34]. La situation se complique du fait que, parfois, certains hommes politiques - et certains journalistes - utilisent leur crédibilité pour soutenir le récit qu'ils ont choisi. Ils le perçoivent comme leur et agressent ceux qui ont des opinions différentes - en particulier les spécialistes académiques - avec des expressions qu'ils auraient honte d'utiliser dans une conversation normale entre amis, au nom de la simple bonne éducation. Crier, toutefois, ne résout pas les problèmes. Face à un conflit, la liberté n'est garantie que si les pouvoirs publics renoncent à épouser un des récits opposés, apprennent à les reconnaître comme tous culturellement conditionnés et suivent leur fonction réellement politique, qui est la médiation. Dans la controverse sur les « sectes », la liberté devient un fantôme si les pouvoirs publics - face au conflit entre les récits - se posent comme parties plutôt que comme arbitres.

3. La liberté politique et le mythe de la manipulation mentale

Une troisième dimension de la liberté est menacée par les controverses en matière de « sectes ». Il s'agit de la liberté comme immunité contre l'intervention de l'État dans tous les secteurs dans lesquels cette intervention n'est pas indispensable, sur la base du principe de subsidiarité. Ce principe est aujourd'hui rappelé par le droit communautaire européen. Alors que l'on déclame en faveur de *la* liberté dans l'abstrait, *les* libertés concrètes sont menacées par la tendance de l'État moderne à l'étatisme et au sans-gêne, tendance qui semble inscrite dans son «code génétique». Si l'on ne surveille pas de façon suffisante ce sans-gêne, il existe un risque que l'État moderne multiplie l'arsenal des armes pouvant violer le principe de subsidiarité et pénétrer dans la sphère des libertés des individus et des associations. Quelques-unes de ces armes - par exemple la pression fiscale excessive et vexatoire qui devient persécution fiscale, et l'activisme incontrôlé des appareils judiciaires - sont assez connues et font l'objet d'un débat animé, particulièrement en Europe. Il semble aujourd'hui qu'en agitant la problématique des « sectes », l'État moderne se soit doté d'une arme encore plus dangereuse,

si c'est possible. Il s'agit du droit, que certains États voudraient s'attribuer, d'examiner si l'adhésion à une réalité associative déterminée est libre et raisonnable, ou si déraisonnable qu'elle fasse soupçonner la présence d'une forme de manipulation mentale. Dans le deuxième cas, la réalité associative en question est définie comme une « secte », religieuse ou non (en effet on parle plus souvent de « sectes » politiques, économiques, etc.). Si on la considère comme une « secte », on déclare qu'elle doit être soumise à toute une série de vexations administratives, car elle est « dangereuse ». Dans un premier temps on parlait de « lavage de cerveau ». Dans un second temps - après que cette étiquette ait été critiquée et même ridiculisée par le débat universitaire - sont nées les théories du lavage de cerveau dites « de seconde génération ». Elles abandonnent l'étiquette controversée et la métaphore des cerveaux lavés, mais maintiennent la même substance que les théories précédentes[35].

Dans les théories du lavage de cerveau de « seconde génération », la notion de «séduction» est très large. Selon un psychiatre cité par le rapport parlementaire français et qui fait partie de la Mission interministérielle de lutte contre les sectes en France, il suffit que l'on se trouve en présence de techniques qui favorisent un « processus d'identification entre le recruteur et le recruté ». Dans cette catégorie rentreraient même les techniques mises en action par les « jeunes évangélistes Mormons, aux cheveux coupés ras, à l'éternel blazer bleu marine et à la cravate club discrète[36] ».

Il est opportun de faire deux observations sur les théories du lavage de cerveau - de première ou de seconde génération. La première est que le débat dans la littérature scientifique de langue anglaise[37] est malheureusement souvent ignoré par les auteurs francophones. Si des théories plus modérées sur l'influence ou l'emploi de méthodes de persuasion illicites ont leurs mérites, les théories « mécaniques » du lavage de cerveau ne sont soutenues que par une toute petite minorité des chercheurs académiques. Elles font partie de ce «*rejected knowledge*», de ce « savoir refusé » par la communauté scientifique dont certains peuvent se servir dans des buts à caractère politique.

Certes, nul ne pense que la propagande des nouveaux mouvements religieux est toujours correcte, pacifique et linéaire. Souvent elle est violente, dénigrante à l'égard d'autres expériences religieuses, et même trompeuse, dans le sens qu'elle comprend de véritables mensonges. Mais, depuis que la publicité moderne existe, les techniques publicitaires et les mensonges - même sophistiqués et astucieux – vont de pair dans l'histoire des coutumes occidentales, et pas seulement dans le domaine religieux.

Dans tous les domaines – y compris religieux - on peut prendre des mesures pour la protection du consommateur (dont la meilleure serait l'éducation de ce dernier afin qu'il puisse effectuer des choix en étant informé). La publicité mensongère ou incorrecte reste toutefois bien différente d'une technique prétendument « magique » et irrésistible de manipulation mentale.

Le lavage de cerveau et sa « mécanique » ont deux caractéristiques fondamentales. La première est que, dans le sens commun où ces mots sont utilisés, les réalités qu'ils voudraient représenter n'existent pas. La seconde est que n'importe qui peut être accusé de les utiliser, de la même façon qu'il peut être reproché à quiconque de se servir d'une arme inexistante et invisible. Face à n'importe quels croyance, mouvement, association, on trouvera toujours quelque individu prêt à soutenir qu'il s'agit de réalités tellement aberrantes et déraisonnables que seules des techniques raffinées de manipulation mentale peuvent convaincre d'y adhérer. Il ne sera certainement pas difficile de trouver quelque représentant marginal de la profession psychiatrique prêt à traduire ces accusations en un jargon pseudo-scientifique. On trouvera toujours également quelque activiste politique pour traduire tout ce jargon différemment, en affirmant que l'on se trouve face à des groupes « totalitaires » qui, par la manipulation mentale, violent la liberté des personnes et les « droits humains ». Soutenues par les témoignages de quelques ex-membres hostiles pour lesquels la manipulation mentale est une explication commode à leur adhésion passée, de telles accusations peuvent être littéralement lancées contre n'importe qui. Les nouveaux mouvements religieux ne sont pas les seuls impliqués, qu'ils soient nés dans notre siècle, comme l'Église de l'Unification, ou au siècle passé, comme les Témoins de Jéhovah. Il s'agit le plus souvent de mouvements et de réalités qui naissent dans le cadre de religions plus anciennes. Ont été attaqués en tant que « sectes » s'adonnant à la « manipulation » ou à la « déstabilisation » mentales - rien qu'à l'intérieur du monde catholique - l'Oeuvre en Belgique, diverses communautés nées dans le cadre du Renouveau charismatique en France, le Mouvement du Focolare, les Néocatéchumenaux, Communion et Libération et autres[38]. Si le Focolare et d'autres groupes unanimement respectés, toutes croyances et opinions confondues, ne sont pas à l'abri de ces accusations, alors personne ne peut l'être. Le papier de tournesol du lavage de cerveau - ou de quelque façon que l'on veuille l'appeler - est truqué. Il donne toujours la même réponse : n'importe quelle réalité est une « secte ». Tout dépend de celui qui tient le papier de tournesol, de qui veut frapper, où vont les sympathies et les

antipathies. Le bâton de la lutte contre la « manipulation mentale » - ou tout autre nom « de seconde génération » que l'on préfère donner au « lavage de cerveau » - peut tomber sur la tête de n'importe qui : même de ceux qui aujourd'hui applaudissent celui qui frappe. Si le bâton est laissé à l'État moderne - envahissant par nature, comme nous l'avons déjà dit -, les dangers pour la liberté deviendront intolérables. Il s'agit - réellement - d'une arme trop mortelle pour être laissée en circulation ; on doit, le plus rapidement possible, l'arracher des mains de quiconque est tenté de s'en servir. Certes l'État a le droit de punir les malfaiteurs, même ceux - et ils ne manquent pas - qui ont élu domicile à l'intérieur d'un mouvement religieux, ancien ou nouveau. Mais pour les frapper il existe d'autres instruments. La théorie du lavage de cerveau est un bâton qui, de par sa nature même, a tendance à frapper au hasard, coupable ou innocent, et c'est une arme dangereuse quelle que soit la personne qui la tient.

Les campagnes anti-sectes semblent être un prétexte à la réduction des libertés individuelles et associatives, déjà très fragiles. La liberté devient un fantôme lorsque la liberté religieuse n'est reconnue que dans les limites de l'ordre public conçu comme ensemble des lois en vigueur. Il s'agit au contraire de juger les lois en vigueur - en les qualifiant de justes ou d'injustes - selon leur capacité à respecter la liberté religieuse. Cette dernière a une valeur supérieure au simple ordre public et ne trouve ses limites que dans les exigences fondamentales du bien moral objectif et commun. La liberté devient un fantôme lorsque, dans le conflit entre les récits concernant les mouvements religieux anciens et nouveaux, les autorités publiques décident de faire leurs les récits de type hostile. Elles deviennent parties plutôt qu'arbitres, renoncent à jouer le rôle de médiateur entre les récits qui s'opposent, prennent - ou affirment prendre - pour argent comptant les versions des milieux anti-sectes ou des ex-membres hostiles. La liberté se réduit à un fantôme si un pouvoir d'État adopte les théories du lavage de cerveau ou de la manipulation mentale, en se dotant ainsi d'un bâton truqué qui permet de frapper n'importe quelle réalité associative désagréable aux puissants du moment.

Lorsque la liberté est en danger, personne n'a le droit de se taire, même en évoquant des valeurs aussi appréciables que la neutralité académique et le devoir des universitaires de ne pas se transformer en militants. Car, enfin, c'est précisément sur cette question des « sectes » qu'émerge la différence entre celui qui aime vraiment la liberté et celui qui se contente de son fantôme.

NOTES

[1]. Cf. J. Gordon Melton, « Historique des associations modernes anti-sectes aux États-Unis », communication au colloque *Les controverses en matière de « sectes » ou nouveaux mouvements religieux : un regard sur les mouvements anti-sectes*, organisé par le CESNUR-France à l'Université de la Sorbonne, Paris, 17 septembre 1996.

[2]. Assemblée nationale, *Rapport fait au nom de la commission d'enquête sur les sectes* (document n° 2468) : Les Sectes en France - Président : M. Alain Gest, Rapporteur : M. Jacques Guyard, député, Les documents d'information de l'Assemblée nationale, Paris, 1996 ; Assemblée nationale, *Rapport fait au nom de la Commission d'Enquête sur la situation financière, patrimoniale et fiscale des sectes, ainsi que sur leurs activités économiques et leurs relations avec les milieux économiques et financiers* (document n. 1687). Les documents d'information de l'Assemblée Nationale, Paris 1999. Pour une critique cf. Massimo Introvigne - J. Gordon Melton (dir.), *Pour en finir avec les sectes. Le débat sur le rapport de la commission parlementaire*, 3e éd., Dervy, Paris, 1996.

[3]. John R. Hall, *Gone from the Promised Land. Jonestown in American Cultural History*, Transaction Books, New Brunswick (New Jersey)-Oxford, 1987, pp. 26-27.

[4]. *Ibid.*, p .144. Cf. sur ce point également mon *Idee che uccidono. Jonestown, Waco, il Tempio Solare*, Mimep-Docete, Pessano, Milan, 1995, pp. 17-36.

[5]. Cf. *ibid.*, pp. 63-107 et Jean-François Mayer, *Les Mythes du Temple Solaire*, Georg, Genève, 1996.

[6]. Cf. mon *Mille e non più mille. Millenarismo e nuove religioni alle soglie del Duemila*, Gribaudi, Milan, 1995, pp. 184-200 ; et Susumu Shimazono, *In the Wake of Aum : The Formation and Transformation of a Universe of Belief*, dans *Japanese Journal of Religious Studies*, vol. 22, n° 3-4 (automne 1995), pp. 381-414.

[7]. Sur les mouvements anti-sectes cf. mon *Il sacro postmoderno. Chiesa, relativismo e nuova religiosità*, Gribaudi, Milan, 1996, pp. 141-193.

[8]. Dans certains cas - comme dans ceux des Dévots de Krishna ou de la Soka Gakkai - l'expression « nouveaux mouvements religieux » est inadaptée, parce que ces groupes, bien que nouveaux, sont nés sur la base de formes antiques et traditionnelles, soit, respectivement, l'hindouisme et le bouddhisme, dans le cas des mouvements susnommés. Il serait donc plus précis de parler simplement, lorsque ces groupes se présentent en Occident, de « minorités religieuses ».

[9]. On note, d'ailleurs, que les religions précolombiennes fondées sur le sacrifice humain étaient certainement, justement, des religions, par consensus manifeste des historiens. Cette observation devrait aider à comprendre comment l'effort de déterminer s'il s'agit « vraiment » de religions et non au contraire de « pseudo-religions » est «*nominalistique*» et inutile dans le cas des nouveaux mouvements religieux controversés. Une organisation « philosophique » ou « spirituelle » peut être de type non religieux et en même temps de bon mérite, de la même façon qu'une religion (par exemple fondée sur le sacrifice humain) peut être aberrante et nocive, sans pour cela cesser d'être une religion.

[10]. Assemblée nationale, *op. cit.*, p. 13. Plus brutalement, un militant parmi les plus connus dans le milieu anti-sectes français, membre de la Mission interministérielle de lutte contre les sectes, pense qu'« il n'existe pas en réalité de véritable pratique religieuse si celle-ci ne s'insère pas dans, et ne respecte pas, le

cadre légal de la société dans laquelle elle s'exprime » (Jean-Marie Abgrall, *La Mécanique des sectes*, Payot, Paris, 1996, p. 17). On devrait en conclure que, par exemple, la célébration de la messe catholique en Albanie communiste - où elle était sévèrement interdite par le « cadre légal » en vigueur - n'était pas une « véritable pratique religieuse » (mais constituait une pratique « pseudo-religieuse » ou « sectaire »).

11. Il ne serait pas suffisant d'observer que Néron, Staline et Hitler étaient à la tête de régimes non démocratiques, alors que ce qu'aujourd'hui on invoque est un « ordre public » conçu comme un ensemble de lois en vigueur en régime de démocratie. La démocratie, en soi, ne garantit pas que toutes les lois soient justes et respectueuses des libertés fondamentales. Il n'est pas nécessaire d'être catholique pour réfléchir sur ces mots de Jean-Paul II: « D'un côté le progrès des libertés démocratiques a conduit à une nouvelle affirmation des droits humains, codifiés dans d'importantes déclarations et accords internationaux ; de l'autre, lorsque la liberté est étrangère aux principes moraux qui gouvernent la justice et révèlent ce qu'est le bien commun, la démocratie même est minée et devient l'instrument par lequel les forts imposent leur volonté aux faibles, comme nous le voyons arriver toujours davantage autour de nous » *(Discours aux représentants des Organisations non gouvernementales et des Agences internationales, à Rome en concomitance avec le sommet de la FAO*, du 12 novembre 1996, dans *l'Osservatore Romano*, 13 novembre1996, n° 3).

12. *Catéchisme de l'Église Catholique*, n° 2109.

13. *Ibid.*

14. *Ibid.*

15. *Sherbert v. Verner*, 374 U.S. 398 (1963).

16. *Wisconsin v. Yoder*, 406 U.S. 209, 215 (1972).

17. *Employment Division v. Smith*, 474 U.S. 872 (1990).

18. Cf. Vincenzo Cesareo et al., *La religiosità in Italia*, Mondadori, Milan, 1995, p. 324.

19. Cf. Luigi Berzano, Massimo Introvigne, *La sfida infinita. La nuova religiosità nella Sicilia centrale*, Sciascia, Caltanissetta-Roma, 1994, pp. 87-97.

20. Peter Novick, *That Noble Dream. The « Objectivity Question » and the American Historical Profession*, Cambridge University Press, Cambridge, 1988.

21. Arthur Conan Doyle, *The Adventure of the Sussex Vampire*, dans Id., *The Case-Book of Sherlock Holmes*, Murray, Londres, 1927, pp. 100-127.

22. Cf. M. Introvigne, J.G. Melton (dir.), *op. cit.*

23. Tribunal de grande instance de Lyon, jugement du 22 novembre 1996.

24. *Ibid.*, p. 21.

25. *Ibid.*, p. 20.

26. En ce qui me concerne, j'avais envoyé au président du tribunal de Lyon et à la presse, au moment de mon témoignage, une lettre dans laquelle, après avoir exprimé mon amertume parce que « la pratique française ne permet pas aux spécialistes universitaires de paraître devant les tribunaux, comme c'est le cas dans d'autres pays, comme *amici curiae*, c'est-à-dire comme témoins indépendants des parties », et avoir précisé me considérer « en tout cas un témoin de ce type », « témoin sur la Scientologie et non pas pour la Scientologie », j'ajoutais entre autres choses que « comme spécialiste chrétien, je considérais la cosmologie fondamentale de l'Église de Scientologie comme incompatible avec celle de la

Bible ». Je soulignais aussi (ce qui était intéressant car un prêtre catholique scientologue était parmi les accusés) que « les enseignements de l'Église catholique et de l'Église de Scientologie sont en contradiction entre eux sur plusieurs points fondamentaux » (lettre du 4 octobre 1996).

27. David G. Bromley, Anson D. Shupe, *Organized Opposition to New Religious Movements*, in *The Handbook of Cults and Sects in America*, JAI Press, Greenwich (Connecticut), 1993, pp. 177-198 (pp. 194-195).

28. *Ibid.*, p. 194.

29. « Le membre déçu et l'apostat, en particulier, sont des informateurs dont les preuves doivent être utilisées avec prudence. L'apostat a généralement besoin de se justifier. Il cherche à reconstruire son passé, à excuser ses affiliations précédentes et à blâmer ceux qui étaient ses collègues les plus proches. Il n'est donc pas rare qu'il apprenne à se fabriquer une 'histoire atroce' pour expliquer comment - par la manipulation, la tromperie, la coercition ou les fraudes - il a d'abord été conduit à adhérer, puis comment on l'a empêché d'abandonner une organisation qu'aujourd'hui il désapprouve et condamne. Les apostats, dont les récits sont publiés dans un contexte sensationnel par la presse, cherchent parfois à tirer profit de leurs expériences en vendant leurs récits aux journaux ou en publiant des livres (souvent écrits par des 'nègres') » (Bryan Wilson, *The Social Dimensions of Sectarianism*, Clarendon Press, Oxford, 1990, p. 19). Il est important de noter que, parmi des milliers d'ex-membres, seulement un pourcentage minoritaire (même si intéressant) est constitué par des « apostats », comme le confirment presque toutes les études empiriques dans ce domaine.

30. Cf. mes *Il cappello del Mago. I nuovi movimenti magici dallo spiritismo al satanismo*, SugarCo, Milan, 1990 ; *Indagine sul satanismo. Satanisti e anti-satanisti dal Seicento ai nostri giorni*, Mondadori, Milan, 1994 - tr. fr.: *Enquête sur le satanisme. Satanistes et antisatanistes du XVIIe siècle à nos jours*, Dervy, Paris, 1997.

31. Cf. pour une première approche Arturo Damn Arnal, *Falacias filosoficas*, Minos, Mexique, 1991, pp. 49-50.

32. Cf. sur ce point les observations d'Enrico Di Robilant, *Modelli nella filosofia del diritto*, Il Mulino, Bologne, 1968.

33. Un récit parfait peut exister pour le croyant, mais il appartient à la théologie : ce serait la façon dont Dieu voit éternellement le royaume qu'il a créé.

34. La préférence pour les récits qui proviennent des milieux anti-sectes est, par exemple, évidente dans un opuscule publié par le ministère fédéral allemand de la Famille sur l'Eglise de l'Unification : *Die Mun-Bewegung, Herausgegeben im Aufrag des Bundesministerium für Familie*, Senioren, Frauen und Jugend von Bundersverwaltungsamt, Cologne, 1996 ; de meilleure qualité sans doute, plus problématique - mais toujours un peu déséquilibré dans le choix des récits - l'opuscule du ministère autrichien de la Jeunesse et de la Famille : Sekten, Wissen schützt !, Bundesministerium für Jugend und Familie, Vienne, 1996. Ces opuscules fournissent même les adresses des mouvements anti-sectes, avec ceux des organismes pastoraux catholiques et protestants qui mènent une activité apologétique et polémique à l'égard des « sectes ».

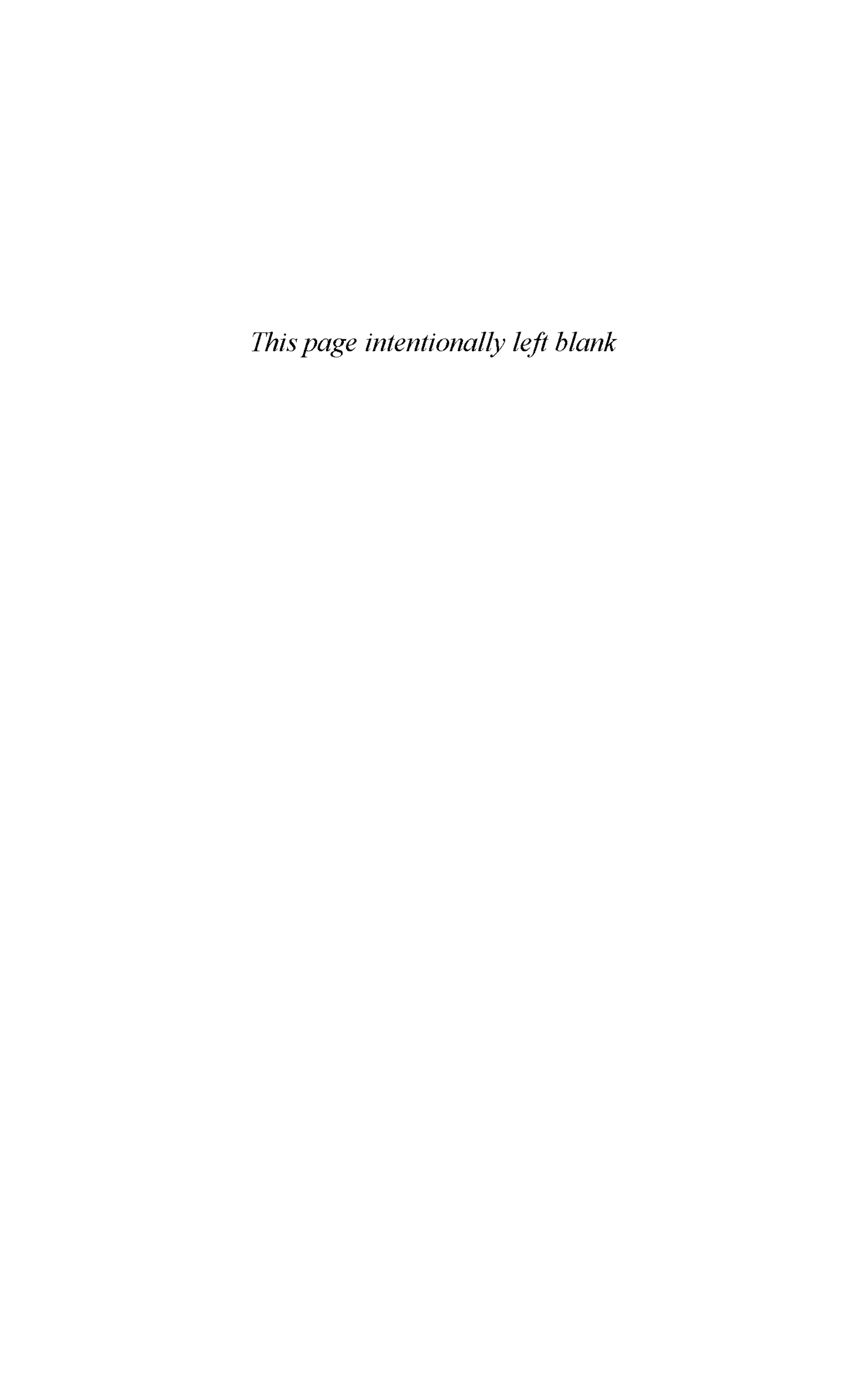
35. Cf. James T. Richardson, *Une critique des accusations de « lavage de cerveau » portées à l'encontre des nouveaux mouvements religieux : questions d'éthique et de preuve*, dans M. Introvigne, J.G. Melton (dir.), *op. cit.*, pp. 85-97 (vaste bibliographie). De façon plus grossière, comme à son habitude - mais aussi

plus sincère - que les autres, le docteur Jean-Marie Abgrall nous informe que « la manipulation mentale - ou conditionnement psychique, ou encore lavage de cerveau (en anglais *brainwashing*) - est la base de l'endoctrinement sectaire » (*op. cit.*, p. 20). L'utilisation des particules « ou... ou encore » montre clairement qu'il s'agit de synonymes et que l'utilisation de l'une ou de l'autre expression répond à de simples stratégies de communication.

[36] Déclaration du docteur Jean-Marie Abgrall, citée dans Assemblée nationale, *doc. cit.* (1996), p. 43.

[37] Cf. Dick Anthony, Thomas Robbins, *Law, Social Science and the « Brainwashing » Exception to the First Amendment*, in *Behavioral Sciences and the Law*, vol. 10, 1992, pp. 5-29 ; Dick Anthony, . « *Brainwashing and Totalitarian Influence: an Exploration of Admissibility Criteria for Testimony in Brainwashing Trials.* » Ph. Diss.), Graduate Theological Union Berkeley (California) 1996.

[38] Sur les communautés françaises nées du Renouveau dans l'Esprit cf. Thierry Baffoy, Antoine Delestre, Jean- Paul Sauzet, *Les Naufragés de l'Esprit. Des sectes dans l'Eglise catholique*, Seuil, Paris, 1966 (pour une critique cf. mon *I naufraghi del buon senso*, in *Cristianità*, anno XXIV, n° 254-255, juin-juillet 1996, pp. 13-15). Sur le Mouvement du Focolare, les Néocatéchumenaux, Communion et Libération, cf. Gordon Urquhart, *The Pope's Armada*, Bantam Press, Londres, 1995.



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THE MEDIA AND SOCIO-CULTURAL REGULATION OF RELIGION[1]

Roland J. Campiche

INTRODUCTORY REMARKS

The thoughts which I intend to develop are closely linked to research which we have recently brought out under the title, "Religion and the social connection". The objective of this research is to repeat, after a period of ten years, an analysis of the state of religion in late modern Switzerland, recorded in "Croire en Suisse(s)"(1992).

It is significant that we have introduced something into our research program which was not there in 1987, namely a study on the theme of religion and the media; its conclusions will provide us with a key to the interpretation of the construction and regulation of religious mobilisation. How can such an initiative be justified? As an introduction, I will put forward the following eight points :

1) Since the beginning of the 1990s, the media have attached a growing place to religion (after a period of indifference or indeed rejection).

2) By doing this, they are contributing to the support of the socio-cultural role of the latter.

3) By referring to the criterion of laicity which implies the recognition of religious pluralism and the axiological neutrality of the state, they are mapping out the contours and «relief» in the field of religion.

4) But by dint of tackling the theme, they also contribute towards making it commonplace (a term which I prefer in order to avoid an epistemological debate on desacralisation[2]).

As in a news-flash, these four points return us to the regulatory role of the media; a role which, from the outset, seems ambivalent and relatively independent of religious organisations.

5) Observation of the media shows, on the one hand, that by reason of its function, it inevitably increases the standing of religious leaders and on the other, tends to place greater importance on events[3].

6)It therefore creates the social necessity for leadership and the obligation for religious organisations to generate events.

These last observations (points 5 and 6) highlight the fact that the treatment and the regulation of the subject obey secular criteria. These same observations open up the problem of effect.

7) In the latter perspective, the media accentuates the relative stereotypes in the way it presents religious matters

- in what is considered religious
- in the personality of the leader (whether a cardinal or a guru)
- in the strangeness of a particular field in relation to the general order

8) However one is almost totally ignorant of its influence on the cognitive religious plan. In fact there are very few empirical studies of this theme; and moreover these studies are very difficult to cope with.

In these eight points, I recognise that with the passing years, the media has become the interpreter of religious matters in the same way as the 'virtuosi' in the field, namely the clerics and the various specialists in the social scientific study of religion (Campiche, 1995, 1997). Furthermore, it plays a role in the restructuring of this field. But which role? The more I progress in my reading of sociological studies of the media, the more perplexed I become and, as a result, the more cautious. In fact the understanding of the conditions and the effect of the reception of the media message can be a delicate matter as Dayan has shown (1992 : 156, and Dayan and Katz, 1992). To know how the spectator, the listener or the reader should decipher or re-encode this message, whatever it is, thus remains open to question. In consequence, my thoughts will assume a hypothetical character and will raise more questions than they are able to resolve.

In formulating these preliminary remarks, I am following in the footsteps of the poet, philosopher, theologian and Hellenist Edouard Burnier (1998 : 96) who wrote in his diary in July 1978 :

"Which thought does not simply move from one grey area to another, having travelled across a clear sky, in which space we construct the fixed constellations of our clear ideas?"

1. Defining the problem

Allow me to begin with an anecdote: soon after the first suicide-massacre of the Order of the Solar Temple, an event which was the main topic of conversation in Quebec as well as in Switzerland, the Swiss Romande television showed a program scheduled in the consumer slot entitled, "Sects - how to get away from them?" Having touched on the difficulty of defining them, the program then showed in turn a selected list of these movements, a description of their technique of indoctrination, testimonies of former members as well as those of the experts, of whom Dr Abgrall was inevitably one, a list of the rights and obligations of people ensnared by these sects and then concluded: "You are free : you can do as you please."

I hardly need to describe my state of mind after watching this program. In fact I felt as though all efforts to put forward an alternative interpretation of the event or a different approach to it, had been totally demolished[4].

Three years later, and almost to the day I showed this same program to a final year class at the Haute Ecole specialising in social studies. To my great surprise, all the students spontaneously launched into a fierce criticism of the broadcast, rapidly deconstructing its assumptions.

These two episodes serve to illustrate in a positive way the theoretical gap of polar extremes between which we swing in order to interpret the socio-cultural effect which the media might have on religion, or, to put it more precisely, and this is the view I would prefer to take, the importance of the regulatory role played by the media where religion is concerned. In other words, the socio-cultural effect and the regulatory effect do not have the same meaning, even if the two notions are not mutually exclusive. To have an effect involves altering the content and the portrayal of religion in our society. To regulate religion would involve determining particular forms and treatment of religion and the way they should be regarded in the scheme of things. Here is an example of this: on the Thursday prior to the «Journées mondiales de la Jeunesse» (19-24th August 1997 in Paris) the French media said it would be a flop because French people would stay at home. On the Friday, because of the crowds attending, it was pronounced a success given that the mythical number of one million of the faithful had been reached. In this particular case, it is the media which has conferred the dimension of an event on this meeting. The latter enters the category of 'ceremonial event' in the sense ascribed to it by Dayan and Katz (1992, 16). «Les Journées» had been arranged a long time in advance and the

script had been written by responsible Catholics and was therefore under control. As for the media, they described the event in the telling of it. In contrast to some of the other journeys made by the Pope (Poland, Nicaragua), this one was of primarily religious connotation, which notoriously changed the nature of the commentary. A good illustration of this is the fact that participants were often described as pilgrims.

But let us return to the two theoretical poles relative to the socio-cultural effect of the media, having taken into account the declared porosity between the two sets of problems.

On the one hand we can put forward the argument of an immediate and great effect, whether by defending the idea of a deconstructed society in which the media is the sole socialising factor, (Lasswell, 1927)[5], or by advancing the theory of ideological domination such as that of the Frankfurt School. Seen from another point of view, it has to be admitted that the media has a limited effect, whether by virtue of the individual mechanisms used to withstand its impact, generated among other things by the fact that the listener is embedded in a network of interpersonal relations or in view of the listener's preliminary knowledge, (Lazarsfeld, 1944) whether by virtue of his or her social status (Hoggart, 1970), or of any other needs. (Berelson, 1949).

These arguments, which have become classic, have been reconsidered during recent decades in favour of theories which bring out the complexity of the effect of the media and the necessity to take them on board in the long term (see in particular Dayan and Katz, 1992, 221ff)[6], but without fundamentally renewing them. While supporting the argument of limited effect, I have put forward the hypothesis (Campiche, 1997, 267ff) of a variable effect on religion by the media, attributing a great media impact in the construction of the portrayal of religious subjects, such as sects, by virtue of the fact that their character is unknown to the public, but attributing a relative impact in relation to established religions, since the public can take it or leave it, because of what it knows and what it has experienced, as is also the case in politics.

By distinguishing the strong and relative effects of the media, I am provisionally dismissing the different theories concerning the influence of the media. In the first case, the media has contributed as an intermediary to the construction of a collective memory where sects are concerned; a strongly sought after memory amongst the elaboration of legal texts or those artfully seeking to contain their actions. The measures taken by the police in order to prevent publicity for Scientology propaganda (Lausanne, Zurich, Basle) are good examples of this. It is the same with current

discussions to prevent this group in taking the name of church (Geneva). The theories known as 'critical paradigm' regarding the conservative role of the media, or 'technological'[7], which accentuate the role *per se* of the media are reinforced, while the idea of a relative effect goes back again to the so-called 'gratification research' theory, affirming the capacity of the reader/listener/spectator to select and use the media like a cafeteria where he can take advantage of the resources (see ibid., 221ff). The latter theory is very close to that of the individualisation of religion underlining the different religious 'pick and mixes' made by our contemporaries. One could wonder with justification, whether the flaw in these last two theories is that it is giving greater importance to the short term at the expense of a long-term process.

The verification of the hypothesis of variable effect has taken place as a result of the observation of journeys by the Pope and from analyses of this subject on the one hand, and on the other by a study of the contents of a thick press file and from television programs about religious minorities, given the name of sects. These analyses are in fact not shown to be very illuminating in tackling the problem of the effect of the media on religious attitudes, but are good for defining, on the one hand, the use which religious actors can make of the media (for example: the papal journeys) and on the other to detect the impact of the media on the construction of religious representations. We only have to think of the way in which religious correctness is portrayed in relation to the treatment of "sectarian deviations", and their associated dangers.

The disputes between the Evangelical Church of the Pentecost at Besançon and the press and the authorities provide a good illustration. This Church, whose statutes were laid down in 1963 at the préfecture in Doubs, subscribes to the Mennonite sphere of influence, according to E. Poulat[8]; it reflects the dual evangelical and Pentecostal tradition. Prior to 1988, articles on this subject were published in the regional and local press. They were insignificant and made mention of the distribution of tracts, the participation of its members in the activities of the Church and the testimonies of healing. The importance of reference to biblical text was emphasised but without any negative judgement. On the contrary, in the journalists' eyes, the Church appeared normal and respectable and was not considered to be a sect; an assessment which was confirmed by Alain Vivien in a public debate in 1989.

From 1988 onwards the tone changes. A branch of the Roger Ikor Centre (a centre against the manipulation of the mind [CCMM]) was set up at Besançon. Its attacks on the Mission and on the Church in particular,

were targeted on the healings, the quality of ministerial training, the wealth of the community and the source of that wealth. Accusations of mental manipulation abounded. The local and regional press (l'Est Républicain) took up and endorsed the information: a well-recognised scenario[9]. Feelings rose between the Mission and CCMM. An action for slander was instituted, but the Mission was finally ruled out of court in 1994 by the Court of Appeal in Besançon, supposedly on formal grounds (for not meeting deadlines).

The attacks by CCMM hit home after the local police enquiry and when its results reached Paris. The fiscal status of the Pentecostal Church of Besançon was challenged by the Tax Office and the Mission was brought before the administrative tribunal. So it came about that the community in question appeared in a report "Sects in France" (1995) without expert appraisal and verification of the religious character of the enterprise. This gap did not create any problem, since public opinion by now viewed this process with disfavour.

As Poulat says[10], even if the evangelical Church of the Pentecost in Besançon had made mistakes and was clumsily defended, the danger of this organisation appearing in the list of deviant sects was never established. The hostile climate made honourable recovery difficult, even if the Mission received the support of ECAAL (The Augsburg, Alsace and Lorraine Church) and the Salvation Army and entered into official dialogue with the Protestant Federation of France.

This example brings to the fore the role of social regulation which the media has in connection with religion. A role which is consistent with the production of a widespread consensus where religious institutions such as minorities are concerned. It can be summarised as follows: religious institutions are not bad, but marginal, sects are pernicious because they are confining. In this sense, as in political matters, the media confirms the stereotype. Thus they contribute to the portrayal of religious affairs. They reflect an image of the latter which conforms to the criteria of laicity: pluralism and neutrality.

In putting forward the opinion that the media participate in the regulation of religion, I would like to draw attention to the multiplicity of agents who play a part in this process. I will therefore make mention of the problems posed by this multiplicity, before returning to the method by which the media operates this regulation.

2. The absence of a central regulator

If one goes along with Lemieux's idea (1996a), one which I share, of the absence in western society of a central regulator of religion, it is possible to open onto two lines of thought and interpretation of the facts. Firstly, there is the autonomisation of the religious subject able freely to construct his or her religious identity[11] and who, because of this, would bring about a dissipation, indeed an infinite dispersal of religion in society, with all the implications imaginable.

In this case, the question of regulation becomes obsolete. The above-mentioned agencies do not regulate anything. They sustain at most a market which operates strictly according to the law of supply and demand. Thus, as a last resort, regulation is passed on to the individual (as many types of religion as there are individuals). The second line of thought postulates a plurality of factors: state, school, family, religious organisations, the media. In view of the difference in function, they do not conform to the same social logic and are pluralist within themselves and do not share the same interests in comparison with religion. Under these conditions, is it possible to talk of their effects or their regulatory role? How is it possible to decipher the convergent or divergent impact of their regulatory action and to organise their effect into a hierarchy? It can be seen immediately that by taking them into consideration, both sets of problems become intermingled.

Let us look at the family. It is clear that there are some families who manage to create a religious tradition and who thus ensure the continuity of the line of belief, something according to Danièle Hervieu-Léger's thesis. Others will not rest until they have neutralised the religious factor in order to survive or to abide by an informed choice inferred by the context especially when they, the families, have been reconstructed in a multiplicity of ways, ethnically, socially or religiously. The regulatory role of this institution, although the subject of much research, is, to say the least, questionable. Turning to the school, it becomes obvious in many European countries that there is a desire to dispose of denominational religion in favour of the teaching of religion on the basis of bringing the differences under one roof and of managing pluralism without conflict. In this way this institution lays down an acceptable religious model and conforms to the plan of society which the media might well reinforce by giving it a wide circulation. Thus the question of the regulatory role of the various institutional agencies, whose effect might well be to cancel one another out and/or have a neutralising or commonplace effect on the

subject concerned, appears, in this day and age to be difficult to decipher. In addition, these observations refer back to the two stages in the flow of communication[12]. The interpretation/reception stage seems that much more decisive and its restoration that much more complex!

But let us return to the principal question, that of knowing whether the media intervenes in the regulatory process.

3. But what *can* the media regulate?

At this stage, it is worth remembering one or two points concerning the status of the media in our society. They are subject to certain imperatives. Firstly to market forces, but equally to the pressures of socio-cultural reproduction and finally to the government of the day (in the democratic circumstances in which they evolve).

Communication thus seems to be a managed process. Take for example the Waco tragedy, the media can be seen solely as a medium of a regulation which stems from elsewhere. In fact, during the siege at the Davidian Community, the forces of law and order virtually dictated the process of communication, supporting the claim at the crucial moment, of the theory of mass suicide by an apocalyptic community, when subsequent analysis of events would show that the forces of law and order themselves had been the cause of most of the deaths (Richardson, 1995,153ff). This version of events, broadcast on the spot, - a publicly acknowledged and verified fact - has contributed nevertheless to the representation of sects, by means of which, for example, the Solar Temple affair has been interpreted (see Campiche, 1995) with all the social and political consequences of which we are aware, in particular the vague desire of the French or Swiss state to control non-conformist religion without distinction. (see Gest, Guyard, 1995; Ramseyer and Bellanger, 1997).

In returning to the subject of "agenda" (McCombs and Shaw, 1972) which holds that there is a strong correlation between the order of importance given by the media to certain pieces of information and the importance attributed to it by the public[13], the media can create a type of hierarchy of that which is acceptable, by means of the greater or lesser amount of attention it pays to a religious event and by the tone of its comment. Thus it seems that the idea implicit in the theory of a simple revelatory agenda, is an illusion. The phrase "It is advisable to think..." is in fact often accompanied by some sort of evaluation. It is always "This is how you should think." An event or a problem is not just placed on the

agenda. It becomes the object of an artifice. A critical history of the function of the agenda remains to be made (see note 7 *infra*).

Let us look at another example, the journeys of the Pope, focusing in particular on «Les Journées Mondiales de la Jeunesse» (August 1997). The extraordinary attention given to the Pope in person (in particular by channel 2 of French television), during which every step was followed live for the duration, is something which runs counter to the way in which information is presented, where speed and selection predominate and which, as a result, gives credit to a certain number of attitudes and religious behaviour, independent of their meaning, simply by virtue of their being portrayed. As for the commentary which was more or less limited to the religious character of the event, it was distinguished more by the respectful tone of its remarks than by its content. Even when the commentary was sharper, for example during the television news, the fact that the event was shown at all, has more significance than the interpretation given to it. A comparison could be made with the way in which a visit by a head of state is presented, asking whether this is yet another illustration of the manner in which power is portrayed, similar in fact to the numerous ceremonies that can be gathered up in the term "coronation". (see Dayan and Katz, 1992, 38)

The portrayal of "sects" - once again they could linked with other marginalised socially unacceptable groups, such as the National Front or hooligans, because they are perceived to be anti-democratic - obeys certain criteria: those of astonishment and reprobation[14]. These warning examples which testify to a desire to purify the religious market are too numerous to mention through the centring on images of ceremonies, rites or other events concerning religious minorities (see the television film inspired by the Solar Temple affair). The choice of what is shown is such that it renders any commentary almost superfluous. Even if there was no intention to stigmatise, the reaction provoked by these images: the development of legislative measures to limit religious liberty, for example, shows its effectiveness. Even so, it is also possible to form a contrary hypothesis. By being the medium of new information, and consequently passing on knowledge which reveals unknown aspects in the field of religion, the media is able to prompt experimentation in non-conformist religion. In fact, in being circulated, the latter paradoxically becomes legitimated, made into some form of consumer product. By being shown, it exists, which means that it is recognised by the media by being shown on the screen, in the same way that hooligans or inner-city revolts are shown, and paradoxically become commonplace.

We can see by means of this last example that the media can play a dual role where regulation is concerned. A witnessing role which maintains the pre-eminence of established traditions. At the same time the media can contribute by way of its function and its dependence on the market, in fixing attention on the possible extension of religion, of drawing attention to esoteric movements, and by encouraging the listener to experiment outside established traditions. In this sense, it has a role in the definition and demarcation of religion in society.

A demarcation which increasingly eludes the religious organisations themselves. Besides the media it seems that other actors are making use of these circumstances in order to try to establish control in the field of religion. As well as the examples given above of attempts by the police, which originate from the state, aiming to counter religious excesses, it can be seen that there is a propensity amongst anti-clerics to seize the opportunity to reappear on the public scene. Thus, paradoxically, we arrive at a situation where there is an alliance between these two environments with the defenders of "religious correctness" in order to police a field more or less voluntarily deserted by its traditional actors.

As can be seen, the media controls the market in religious communication. But does it control religion itself, in other words, does it exert a cognitive influence on religion? This question remains unanswered. On the other hand, by way of a summary, it could be said that by increasingly talking about religion, the media legitimizes its social role. It has done this in particular by giving its leaders a public role and by covering events (a symbolic way of saying that they sanction it). By doing this, its action is ambivalent, in that it gives credibility to religion at the same time as making it commonplace.

In conclusion it is relevant to underline the fact that the media does not cover the whole field of religion. Numerous movements and demonstrations escape its gaze. Something which comforts legitimate research which revolves around a religion which is seldom if ever spoken of, namely ordinary religion! But if these movements escape the media, will they escape media temptation, would that only be to have the sense of existing?

NOTES

1. Revised version of a paper first presented in French at the annual meeting of the AFSR (Paris, February 2-3th 1998). Translation in English by Sandra Hogan (Exeter).

[2]. Dayan and Katz (1992, 207) from their analysis of journeys of the Pope and the non-religious (diplomatic, political....) implications, judge that media events contribute to the removal of borders between the sacred and the profane.

[3]. This last point finds confirmation in Dayan and Katz (Media Events, 1992). We draw inspiration from this remarkable study on the production of events by the media to place our observations in comparison with the different relative theories of the effect of the media.

[4]. Colleagues who analysed the tragic case of Waco expressed a similar point of view: (see Wright, 1995 and Tabor and Gallagher, 1995).

[5]. It is worth noting that Lasswell has not retained the positions he defended in his 1927 thesis.

[6]. The appendix entitled: "Five Frames for assessing the Effect of Media Events" does not appear in the French edition of this work: Dayan, D., Katz, E. (1996), *Ceremonial Television. Live Anthropology and History*, P.U.F., Paris.

[7]. According to this theory, the media was teaching people how to think by way of informative language (see Campiche, 1982, 90).

[8]. The analysis of the case is based on a press dossier provided by the Church in question and on the expertise of Emile Poulat (in his letter of 21 April 1997 to the Church officials as well as in his own articles). I am fully aware that the press file is not exhaustive, but it contains enough significant elements which illustrate the aim of this argument.

[9]. The propensity of the press to take up, with little verification, the accusations of anti-sect groups is a well-observed phenomenon on both sides of the Atlantic.

[10]. See note 8.

[11]. The strong view is recalled here, which supports the theory quoted in "Gratification Research".

[12]. I drew inspiration here from an exchange of letters with Daniel Dayan.

[13]. See the transmission : Cahiers Français, no 258.

[14]. The drama of the Solar Temple Order can be compared with media events which Dayan and Katz (1992, 27) call "Conquest" and which can be characterised by their unexpected character and their capacity to alter the future. The viewer has the tendency to receive this sort of event with "awe and suspicion". These two attitudes were pinpointed at the time of the broadcasts provoked by the suicide-massacre at the Solar Temple Organisation.

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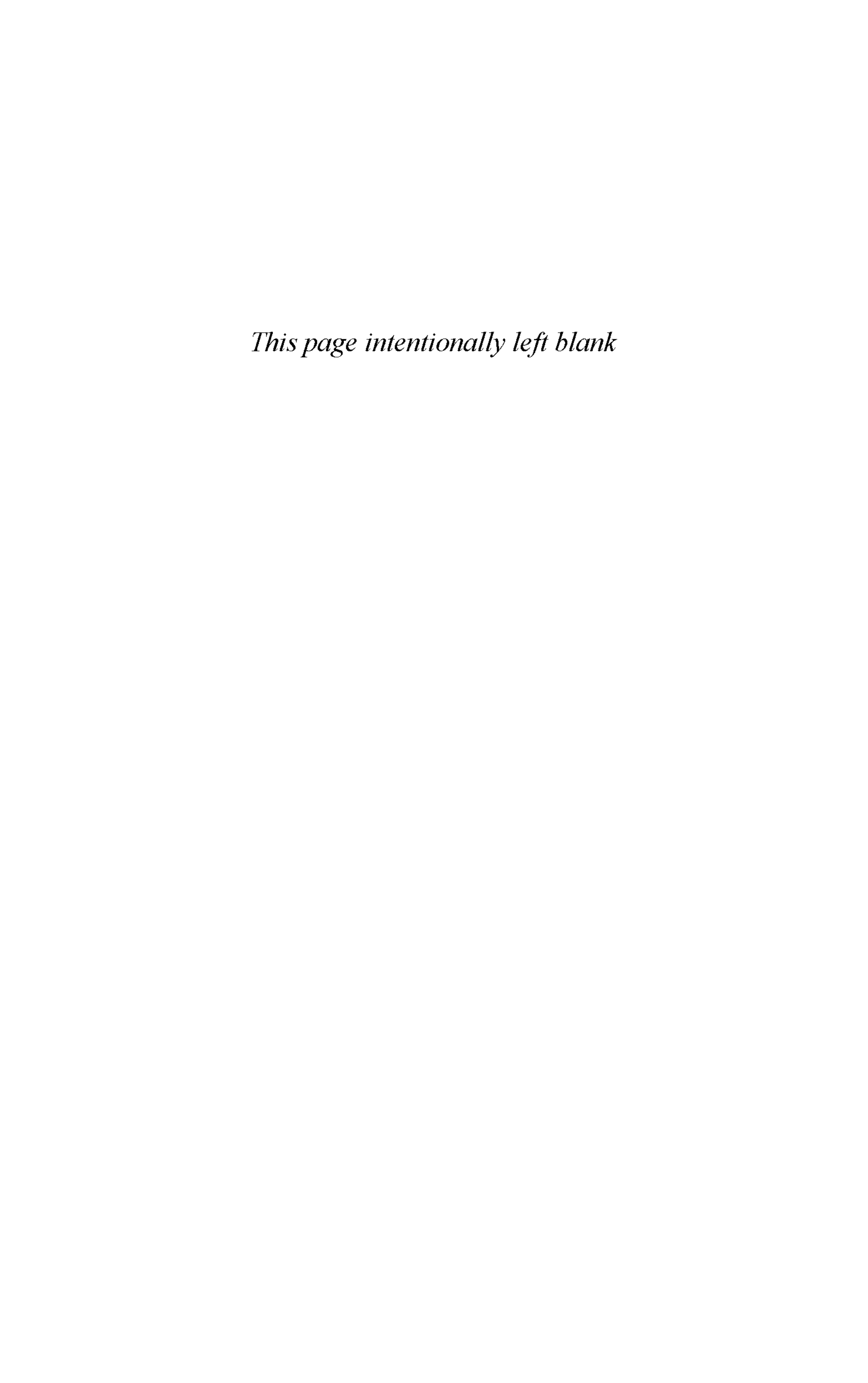
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UN RÈGLEMENT DE « CONTE » AVEC LES SECTES ?

Drame religieux et gestion de crise : le cas de Saint-Casimir

Alain Bouchard

« Il était une fois... », cette phrase, qui a marqué l'imaginaire d'un grand nombre de nos contemporains, introduisait des histoires qui ont peuplé une partie de nos rêves et de nos aspirations. Mais en plus, elles ont été un mécanisme de transmission et de régulation des valeurs socialement acceptables. Relégués au domaine de l'enfance, les contes ne font plus partie, pensons-nous, de l'univers des adultes. L'étude de la gestion sociale du phénomène des nouvelles religions nous semble, à notre avis, un endroit où se perpétue ce genre littéraire. Et si le traitement médiatique des sectes religieuses jouait le même rôle que les contes de notre enfance ? Et si derrière les cas de naufragés des sectes se cachaient un petit Poucet, une méchante fée ou un ogre ? Pour connaître les réponses à ces questions, nous avons besoin d'une histoire.

Le 23 mars 1997, à Saint-Casimir dans le comté de Portneuf au Québec, cinq personnes membres de l'Ordre du Temple Solaire, groupe que l'on croyait pourtant dissout, se donnent la mort. Le motif principal pour expliquer ce geste semble être la conviction religieuse. Si cet événement s'était déroulé cinquante ans plus tôt, les dirigeants politiques et religieux de l'époque auraient sûrement occupé l'espace médiatique pour rassurer la population. On aurait probablement stigmatisé le geste posé, en rappelant que la paix sociale passe par la défense des valeurs garanties par la religion et par l'État. En 1997, les intervenants et le contenu des discours ont changé, la forme et le ton des interventions sont restés cependant les mêmes. On a dénoncé la situation pour mieux proclamer une « Vérité ».

Ce glissement chez les acteurs principaux et dans le contenu de leurs discours nous révèle des axes de la transformation sociale et religieuse qui s'est opérée au Québec depuis un demi-siècle. La dynamique sociale qui

s'est mise en place lors de cette tragédie révèle des enjeux spécifiques à notre contexte actuel. Mais avant de présenter ces analyses revenons sur les événements.

1. Il était une fois...

1.1 Les faits

Le 22 mars 1997, une chaîne québécoise de télévision spécialisée dans les documentaires diffuse un film intitulé *Aller simple pour Sirius* (Giguère, 1997), qui présente les témoignages de personnes dont les parents sont morts dans la tragédie de l'Ordre du Temple Solaire de 1994. Les derniers propos recueillis nous amènent à conclure que jamais nous ne ferons toute la lumière sur cette tragédie et que la spiritualité est une démarche personnelle qui ne devrait pas nécessiter, pour s'accomplir, l'aide de quelqu'un d'autre, en particulier d'un maître. Au même moment dans la campagne québécoise, à mi-chemin entre Québec et Trois-Rivières, cinq personnes organisent leur suicide collectif. Après trois tentatives infructueuses, que les trois enfants d'un des couples ont fait avorter, la quatrième tentative réussit grâce à la participation de ces trois enfants pour le déclenchement final de la mise à feu. Le feu se déclare vers 18h00, les pompiers arrivent à 18h10, à 19h15 les enfants sortent de l'atelier situé à l'arrière de la maison et à 19h35 on découvre les victimes dans la maison.

Le sort des enfants et la possibilité qu'ils aient pu participé à la phase finale du pacte de suicide de leurs parents ont retenu l'attention des médias et de la population dans un premier temps. Mais rapidement on a soulevé la question des raisons de ce geste, ce qui a mené à une surenchère d'interprétations. La suite est ponctuée de conférences de presse de la Sûreté du Québec, de reportages en direct des lieux du sinistre et d'interventions de membres du gouvernement québécois, de voisins et « d'experts ». Le 22 avril 1997 est déposé le rapport du vérificateur général d'Hydro-Québec sur les allégations d'infiltration par des groupes ésotériques. Ce rapport avait été commandé le 19 avril 1996, suite à des allégations rapportées en 1993 et en mars 1996 dans les médias québécois. Enfin, le 8 octobre 1997 le coroner Yvon Naud dépose son rapport sur la tragédie de Saint-Casimir.

1.2 Les réactions

Rappelons que les événements se sont déroulés dans la nuit du samedi au dimanche. Comme la nouvelle est souvent conditionnée par les contraintes structurelles de temps et de disponibilité des médias et de leurs journalistes, il faut attendre au lendemain pour assister au déploiement de la scénographie médiatique. Pour la journée du dimanche, peu d'émissions sont consacrées au sujet, sinon la retransmission de la conférence de presse de la Sûreté du Québec, suivie d'une réaction de trente secondes du sociologue Raymond Lemieux. Dès l'ouverture des émissions le lundi matin, LE sujet de l'heure à toutes les stations est l'affaire de l'OTS à Saint-Casimir.

La vague initiale des réactions est empreinte d'ouverture. Le premier « spécialiste » interrogé sur les événements de Saint-Casimir est Guy Fournier, écrivain québécois renommé pour ses romans télévisés. Monsieur Fournier avait publié quelques mois auparavant un roman documenté sur le « massacre » de 1994 de l'ordre du Temple Solaire (Fournier, 1996). Vu la notoriété médiatique de l'auteur, ce récit romancé de la première catastrophe avait retenu l'attention du public et avait fait de cet écrivain la référence sur la question. La fiction venait au secours de la réalité, c'est le début du conte. Le ton de l'intervention du romancier face au drame qui mobilise l'attention de l'ensemble de la population est sous le signe de la compassion et de l'ouverture. Sur toutes les chaînes de télévision et de radio, Guy Fournier parle d'une « tragédie humaine » qui n'est pas une « affaire de police ». Il insiste sur le fait que, pour comprendre ce geste, il faut le situer dans un « contexte de foi » et souligne la « foi remarquable » de ces gens qu'on a peut-être « emmerdés ».

Dans la foulée de Fournier on entend par la suite Herman Delorme, ex-adepte de l'OTS qui avait publié plus tôt un livre relatant ses expériences dans ce groupe (Delorme, 1996). Delorme avait participé en 1993, avec Vinet et Jouret, à l'« affaire » de l'achat d'une arme à feu, geste qui leur avait valu un casier judiciaire. Même si Delorme dit avoir été manipulé dans cette histoire, son point de vue sur les événements de 1997 va dans le même sens que celui de Fournier ; il parle de « personnes poussées au pied du mur », d'individus qui n'étaient « plus capables de vivre la situation ».

Le troisième intervenant que l'on voit apparaître sur les écrans des téléviseurs est Yves Casgrain, identifié par les médias comme « l'expert » en mouvements sectaires. Casgrain est la voix principale du point de vue des groupes de lutte contre les sectes. Sa compétence dans le domaine vient du fait qu'il a déjà vécu une expérience traumatisante dans un groupe

d'allégeance catholique. Avec Casgrain, le ton change, il déclare d'entrée de jeu que « le gouvernement a du sang sur les mains », qu'il est « choqué » que l'on n'ait pas écouté ses avertissements par le passé. Pour lui, toute cette histoire est un exemple de la manipulation ultime, voire d'outre-tombe, des sectes (il fait ainsi référence aux pouvoirs qu'auraient exercés Jouret et Di Mambro sur les victimes).

Par la suite, les médias sollicitent le point de vue de sociologues des religions tels Raymond Lemieux et nous-même, qui parlons de cohérence interne, de la question du suicide et de la souffrance, débordant le cadre strict de l'OTS pour présenter les actes posés par les personnes de Saint-Casimir dans le contexte plus large de la religiosité contemporaine et de la mode sociale de l'extrême. Finalement on entend les observations de la population du village de Saint-Casimir, qui utilise des mots tels que « bizarre », « spécial », « surprenant » pour décrire sa perception du suicide de concitoyens. Bien sûr, par la suite toute une série de lignes ouvertes sur la question permette à l'ensemble de la population du Québec de faire valoir son point de vue sur la question.

1.3 Observations

Malgré un départ empreint d'ouverture, c'est le discours interventionniste qui s'impose avant même la fin de la première journée de la couverture médiatique de l'événement de Saint-Casimir. Les éditoriaux des journaux québécois parlent de « dépossession de la personnalité », de « chasse au gourou », de jeunes « qui ont grandi sous l'emprise d'une secte [...] nourris de chimères [...] dont on a lessivé le cerveau [...] des estropiés pour la vie ». Même le coroner, dans son rapport déposé sept mois plus tard, perpétue cette vision lorsqu'il cite en conclusion le journal *Le Droit* en date du 25 mars 1997 et souligne que :

> Les sectes recrutent dans toutes les classes sociales [...] et si la société a le devoir de protéger notre liberté, elle a aussi celui d'assurer notre sécurité contre les exploiteurs, les escrocs, les manipulateurs. Il faut, dans le respect des lois qui nous gouvernent, se donner les moyens de se défendre d'eux et de prévenir les abus.

Même si, tout au long de son rapport, il n'y a aucune indication sur la spécificité du mot « secte », le coroner Naud termine avec les recommandations suivantes :

> La société a le droit et le devoir de se protéger contre les sectes qui trompent et qui exploitent, parfois même au point d'entraîner la mort de leurs propres membres. Elle se doit de mettre en place des structures d'éducation, d'information et de surveillance, car la ligne entre une religion et une secte est parfois mince.

Il semble donc exister un consensus sur ce qu'est une secte et sur les moyens à prendre pour contrer leurs influences. Les représentants du gouvernement québécois ont préféré réfléchir et attendre le rapport du vérificateur général d'Hydro-Québec avant de poser un geste, qui n'est pas encore venu jusqu'à ce jour. Dans la prochaine partie, nous parlerons du rapport d'Hydro-Québec, nous tenterons aussi de dégager des tendances de l'analyse que nous avons faite de la couverture médiatique.

2. ...dans un royaume où les gens croyaient...

En observant les réactions et les opinions exprimées lors des événements de Saint-Casimir, une série de points méritent d'être signalés sur la gestion sociale d'une crise religieuse au Québec.

La banalisation de la secte. Le mot « secte » est devenu un concept polymorphe qui véhicule une charge affective sous le couvert d'une information. On utilise ce mot, mais sans jamais le définir clairement. On parle de pouvoir, de manipulation, de structure, mais les critères objectifs manquent. Par exemple, dans le rapport du bureau du vérificateur général d'Hydro-Québec, déposé le 22 avril 1997, on trouve en annexe une terminologie rédigée par Yves Casgrain, l'«expert» mentionné plus haut, qui définit la secte dans ces termes :

> Mouvement ou groupe manipulateur qui exploite ses membres et leur cause des dommages pouvant être de nature psychologique, monétaire ou physique. Il dicte de manière absolue le comportement, les pensées ainsi que les sentiments des adeptes. Des techniques de manipulation sont employées afin de transformer le nouvel adhérent en un adepte loyal et obéissant. La secte adopte un comportement trompeur et maquille la réalité afin d'attirer de nouveaux adhérents. La secte revendique un statut spécial ou un pouvoir particulier. Elle se dit détentrice d'une mission salvatrice et voit la société de manière négative et réductrice (Bureau du vérificateur général, 1997, 25).

On pourrait voir dans cette description l'énonciation de critères objectifs de ce qu'est une secte, mais il n'en est rien. Comment mesurer et objectiver des critères comme la manipulation ? La réponse se retrouve dans le même rapport quelques pages plus tôt. On y lit :

> [...] je suis d'avis que la Fondation du Graal est un mouvement à caractère ésotérique sans être une secte. En effet, je n'ai trouvé aucun élément d'information, comme des témoignages d'anciens adeptes ou des documents critiques à l'endroit de la Fondation du Graal, qui m'aurait permis de conclure que la Fondation du Graal puisse être une secte, du moins au Québec (p. 19).

La secte s'identifie donc par des moyens simples, témoignages d'anciens adeptes ou documents critiques, qui sont fondés sur la dénonciation et la délation.

Une culture de la délation. L'information sur la question des nouvelles religions donne naissance à un savoir construit sur la délation. Dans « l'affaire » de l'Ordre du Temple Solaire, des débuts jusqu'aux événements de Saint-Casimir, l'information des médias québécois s'est structurée toujours selon le même schéma. *Étape 1* : dans tous les médias (radio, télévision, journaux) on fait un constat des faits et on identifie des acteurs. *Étape 2* : les animateurs de lignes ouvertes recueillent des témoignages et des allusions de leurs sources «généralement bien informées» et de leurs auditeurs. À partir de ces informations ils élaborent des hypothèses en créant des liens entre des groupes. En 1994, c'est ainsi qu'on a commencé à porter des accusations contre l'Ordre de la Rose-Croix AMORC et contre les homéopathes, pointant du doigt les pharmaciens qui vendaient des produits homéopathiques. Cette cueillette d'informations tourne vite à un scénario paranoïaque. *Étape 3* : les autres médias qui sont à l'écoute de ces lignes ouvertes (j'ai pu le constater à plusieurs occasions) suivent ces pistes pour documenter des scénarios explicatifs reposant sur la thèse du complot ou de la manipulation. Toujours en 1994, Radio-Canada a voulu élaborer une preuve de blanchiment d'argent pour expliquer le drame suisse, ce qui s'est avéré sans fondement.

Le résultat de toutes ces démarches est que ce sont les médias qui semblent mener l'enquête. Durant tout ce temps on ne voit jamais les policiers ou les enquêteurs désignés. Mais en plus de générer un climat de méfiance sociale, cette paranoïa génère un mécontentement réciproque chez les policiers et les journalistes. Les représentants des corps policiers

reprochent aux journalistes de nuire à leur travail en cherchant le sensationnalisme et en s'introduisant dans la vie privée des gens. Les journalistes, quant à eux, se disent insatisfaits de la qualité et de la quantité de l'information que les policiers leur transmettent (Bernier, 1998). Cette culture de la dénonciation ne repose pas seulement sur une haine contre des minorités religieuses, mais également, pensons-nous, sur l'impression que peuvent avoir les gens de rendre service à la communauté. Par exemple, j'ai déjà reçu la visite d'une jeune étudiante qui voulait arracher les affiches d'un groupe religieux, parce qu'elle avait lu un article dans un journal sur la « dangerosité » de ce groupe. Elle m'avouait qu'elle voulait ainsi protéger ses confrères étudiants de cette organisation qui menaçait la santé sociale et qu'elle avait le sentiment de faire ainsi une bonne action. Notre connaissance de l'OTS se construit donc à partir d'une paranoïa de masse amplifiée par les médias, qui mobilisent l'attention et les actions d'une bonne part de la population, tout cela étant validé par le discours anti-secte.

D'apostat à apôtre. Les « experts » antisectaires sont souvent des ex-membres qui ont quitté avec fracas, par choix personnel dans la plupart des cas, un groupe. Des sociologues ont donné le nom d'apostat à ces personnes. La lutte qu'ils mènent contre l'ensemble de ce qu'ils nomment sectes est devenue pour eux un lieu de valorisation qui en font des apôtres de la libération des âmes exploitées.

Le point de vue anti-secte devient la norme pour jauger si la déviance peut être tolérable ou non. C'est ainsi qu'on a pu voir au Québec en 1994. Suite à des accusations portées par un éditorial du journal *le Devoir* contre une revue « nouvel-âgiste », *Le guide ressource*, les éditeurs de ladite revue ont demandé au même « expert » des mouvements d'écrire un article dans leur revue sur la question des sectes religieuses, afin de démontrer qu'ils n'étaient pas du mauvais côté. Les mouvements anti-sectes deviennent ainsi des tribunaux d'inquisition, distribuant les sceaux de conformité aux médias d'information et même à des organismes publics. Ce fut le cas pour Hydro-Québec.

La secte devient ainsi un mal invisible qui peut frapper sans avertissement des aventuriers du religieux, c'est une forme de sida spirituel. Mais heureusement, il existe des préservatifs du domaine du spirituel, les groupes anti-sectes. Comme dans toutes les campagnes de sensibilisation à un fléau, les médias jouent un rôle important dans la

diffusion de l'information. Le « fléau des sectes » n'échappe pas à cette règle.

3. ...que ce qu'ils voyaient était vrai...

3.1 Les nouvelles religions et les médias

L'analyse de contenu des articles consacrés aux nouvelles religions dans les quotidiens québécois et les périodiques populaires francophones depuis trente ans nous permet de dégager l'évolution de la perception des médias sur cette question. Nous avons pu repérer trois étapes dans l'évolution de la perception médiatique des nouvelles religions.

Les années 1970 sont caractérisées par des attaques contre les croyances des groupes. Ces attaques sont dans la continuité des reproches que l'on adressait aux Témoins de Jéhovah du Québec dans les années 1940 et 1950. Alors qu'à l'époque on dénonçait le caractère anti-catholique des croyances jéhovistes, dans les années 70 on ridiculise l'exotisme et l'étrangeté des croyances au nom d'une morale profane fondée sur l'idéologie du progrès. Paradoxalement, la source principale d'expertise demeure l'Église catholique, en particulier des théologiens proposant une vision plus « sécularisée » de la religion. Il est à remarquer que dans cette période nous n'avons relevé que des articles de périodiques, le premier article de journal sur les sectes n'a été publié qu'en 1977.

Les années 1980 marquent une transformation dans les attaques des médias, qui ciblent désormais les organisations. On parle maintenant de multiplication des groupes, de fraude et de manipulation. L'accent est mis sur le pouvoir du leader, on le compare souvent à un dictateur. Les experts consultés pour cette période sont les groupes anti-cultes, comme Info-secte pour le Québec, et l'Association pour la Défense de la Famille et de l'Individu pour la France. Les modèles d'analyse utilisés, principalement dans les périodiques, sont ceux de Bergeron (1984) pour le Québec, de Singer (1979) et de Woodrow (1977) pour la France.

Pour les années 1990, c'est l'impact des groupes sur l'individu qui retient l'attention. On parle maintenant de santé mentale, de troubles de la personnalité. La source d'expertise principale est le témoignage de l'ex-adepte. Un des thèmes récurrents est le bien-être des enfants, comme dans le cas de Waco ou celui des transfusions sanguines chez les Témoins de Jéhovah, qui sert de prétexte à l'intervention.

De façon générale, les médias ont une vision négative des nouvelles religions. Les quotidiens analysent le phénomène à la lumière des scandales, tandis que les périodiques, de leur côté, structurent leurs

analyses en fonction des livres qui paraissent sur la question. Dans les deux cas l'événement devient un modèle exemplaire qui est utilisé par la suite pour décrire le phénomène. Les groupes les plus ciblés, durant ces trente ans, sont l'Église de l'Unification, l'Église de Scientologie, Bhagwan Rajneesh et, depuis quelques années les Témoins de Jéhovah. Mais cette évolution nous révèle avant tout que c'est le médium qui est le message, les sectes ne sont plus diabolisées, elles sont médiatisées.

3.2 Le syndrome de Fanfreluche

Enfant, nous regardions de temps en temps une émission de télévision où une poupée du nom de Franfreluche racontait des histoires connues, telles celle du petit chaperon rouge. Fanfreluche changeait les événements et les conclusions des contes en fonction de ses goûts ou de ses humeurs. La Belle au bois dormant se trouvait ainsi propulsée dans un autre contexte, ce qui créait des rebondissements inattendus. La chanson thème nous disait que Fanfreluche aimait raconter des histoires à sa manière, une histoire pour nous amuser. Il y a des fois où nous nous demandons si nos médias ne font pas la même chose que la poupée de notre enfance.

Le matin du 23 mars 1997, dans la salle des nouvelles d'une station de télévision de la ville de Québec, nous attendions les images de la conférence de presse de la Sûreté du Québec qu'on nous avait demandé de commenter. Comme le moment prévu était retardé, on nous a assigné un bureau pour passer le temps. Sur le pupitre notre regard a été attiré par une feuille plastifiée sur laquelle on pouvait lire les critères recherchés pour un bon reportage au bulletin de nouvelles. Le document était titré : Les standards XYZ (Nom du réseau de télévision). Les « standards » se présentaient dans l'ordre suivant : 1. Impact : images significatives et percutantes. 2. Ambiance : son ambiant pour vivre l'émotion. 3. Implication : reporter en action sur le terrain. 4. Histoire : le texte colle aux images. 5. Clarté : langage simple, phrases courtes. Ces standards montrent bien comment le médium est le message. Le contenu est assujetti aux images et aux contraintes techniques. Le direct, la nouvelle rapide, le « scoop » sont devenus des incontournables. La cote d'écoute et le tirage ont remplacé la rigueur et l'analyse. On grossit ce qui se vend, l'information devient ainsi spectacle. La pratique médiatique impose aux journalistes des contraintes de temps qui les obligent à faire une caricature de sujets qui demanderaient une observation longue et minutieuse. Comme le direct est maintenant maître, même les journaux doivent suivre le ton et la forme structurés par les médias électroniques. Même si ce qui vient

d'être écrit pourrait être qualifié de cliché, des exemples comme la couverture médiatique des grands rassemblements charismatiques du Forum de Montréal en 1988 soulèvent de sérieuses questions.

Le dimanche 13 mars 1988, 25 000 personnes se déplacent pour voir et entendre le prédicateur Pierre Lacroix au Forum de Montréal. À la fin de la rencontre, une centaine de miracles se produisent au ravissement de la foule et à la stupéfaction des médias. Fait banal si on en juge par la réaction du journal *The Gazette*, qui ne consacrera que quelques lignes à l'événement, en présentant d'abord le phénomène du télévangéliste Lacroix, puis en analysant la décision du prédicateur d'arrêter ses émissions de télévision, ne parlant des guérisons qu'à la fin de son court article. Dans les journaux francophones, la couverture est différente. Le *Journal de Québec* titre, en première page, « Miracle! », *Le Soleil*, de Québec, dans son premier cahier proclame « Guérisons miraculeuses au marathon de l'amour », *La Presse*, de Montréal, claironne « Miracles à la douzaine au Forum! », tandis que *Le Devoir*, de Montréal, parle en première page d'envoûtement et d'ensorcellement pour décrire l'événement. Tous les médias électroniques ont aussi souligné le fait, et les analystes de l'information, les éditorialistes en particulier, ont critiqué ou ridiculisé le tout. Mais en regardant de plus près les analyses et les réactions des médias, on reste songeur devant la vision qui s'en dégage et la façon dont on a traité le cas du Forum.

S'il y a eu miracle, c'est bien du côté des médias. Le Forum devient un autre exemple du sensationnalisme qui n'est exploité que pour les profits des vendeurs des nouvelles. Le bureau d'études Caisse, Chartier et Associés a bien montré que, lors des événements de Sainte-Marthe-sur-le-Lac en janvier 1986, il y a eu une exploitation médiatique du «miracle» de la statue qui pleurait de fausses larmes de sang (fabriquées par un croyant trop fervent) (Chartier, 1986). Ce cas est un exemple classique du traitement d'une nouvelle dans les médias. Tout d'abord, la mise en scène initiale s'effectue dans les pages d'un quotidien. Les réseaux de télévision emboîtent le pas et, comme ça a été le cas dans l'exemple précédent, lui accordent une place exceptionnelle, fort probablement à cause du potentiel riche que recèle l'événement pour faire des images. En piquant la curiosité des gens, les médias suscitent et entretiennent un mouvement de masse, ils créent un phénomène à leur image. Le contenu de la nouvelle reflète cette dynamique, on laisse beaucoup de place aux témoignages des pèlerins, qui parlent de miracles, de phénomènes extraordinaires. Ensuite on voit le propriétaire de la maison où se déroule le phénomène, qui y voit un message de la Vierge. Finalement les autorités religieuses et médicales ont

droit à peu de temps pour faire part de leur doute quant à l'authenticité du cas.

Au sixième jour d'une couverture médiatique assidue et soutenue, coup de théâtre : Radio-Canada, qui avait demandé une analyse de l'icône, révèle que l'huile n'est autre chose que du gras animal. On annonce par la même occasion que le couple propriétaire de l'icône n'est pas au-dessus de tout soupçon. L'homme est accusé de pratiquer illégalement la médecine par le Collège des médecins, et la femme est présentée comme une fanatique religieuse. On démystifie aussi le phénomène du soleil dansant observé deux jours plus tôt. Pendant les six premiers jours de diffusion, Radio-Canada positionne la nouvelle au début de son bulletin. Lorsque la supercherie est confirmée, on retrouve la nouvelle en fin de bulletin. Lorsque la vérité éclate, ce sont les journalistes qui apparaissent à l'écran, faisant la lumière sur le mystère, avec la bénédiction des experts et des autorités. Lorsque, deux jours plus tard, on recueille les confessions des acteurs de ce phénomène, les reporters qui avaient suivi le dossier depuis le début ne sont plus là, ils sont remplacés par des collègues. Les analystes de Caisse, Chartier et Associés concluent: « dans toute cette affaire, les journalistes et les médias semblent s'être servis eux-mêmes, incitant la progression du phénomène et par son truchement, à la consommation de la nouvelle. Plus tard, ces mêmes intervenants se sont réservés le «beau rôle» en désamorçant le mythe miraculeux qu'ils avaient contribué à créer ou tout au moins, à amplifier » (p.7). Tout au long de la couverture de presse, les journalistes se sont donnés le rôle de justicier, en faisant la démonstration que la religion est une affaire de supercherie, mais en passant à côté de l'essentiel, c'est-à-dire le phénomène des icônes pleureuses au Québec, qui continuent toujours, d'ailleurs, de suinter.

Mêmes observations dans le cas des dramatiques télévisées diffusées depuis quelques années. Les dirigeants religieux y sont présentés comme des bourreaux manipulateurs, ou comme des êtres sans idéaux qui ne savent que répéter un message décroché de la réalité moderne. Le fait divers, l'aspect sensationnel sont au coeur de l'information, on peut parler d'une « insoutenable légèreté des médias » (Bouchard, 1995) qui semble nous révéler un contentieux non réglé entre certains journalistes et l'histoire religieuse récente (Gourde et Marcil, 1997). Nous pensons, comme Liebman (1997), que certains journalistes trient l'information qui confirme leurs préjugés.

4. ..., parce qu'ils voulaient bien y croire

Le modèle de la secte qui est utilisé par les médias semble relever de la légende urbaine, ces histoires fictives qui deviennent plausibles socialement et qui expriment de façon inconsciente les préoccupations des individus qui les créent et les propagent (Campion-Vincent, 1989 ; Kapferer, 1989). Ces rumeurs deviennent des récits cathartiques qui fournissent au groupe social un scénario acceptable pour substituer un ordre à la dissonance générée par l'évolution et l'évaporation des formes traditionnelles de socialisation et par la redéfinition des frontières morales (*moral boundaries*). Comme on a pu le voir, ce sont les préoccupations sociales qui ont marqué l'évolution de la perception médiatique des nouvelles religions.

Les récits sur les nouvelles religions deviennent donc des moyens pour dire que l'on discrédite l'institution religieuse traditionnelle et pour identifier le coupable de l'échec familial dans la transmission des valeurs. On reprend alors le scénario typique de l'étranger et de l'enlèvement, l'ogre des fables refait surface sous le masque des sectes. Comme dans les légendes urbaines, les récits médiatiques sur les nouvelles religions pointent les préoccupations d'une époque et identifient un bouc émissaire révélateur des angoisses d'une société. La secte menace l'avenir du groupe (les jeunes) en le faisant basculer dans l'irrationnel, qui est l'inversion du mythe fondateur moderne : la science.

Le binôme nature/culture des sociétés traditionnelles devient rationalité/irrationalité dans nos sociétés techno-bureaucratiques. La religion institutionnelle devient une anomalie sociale dans une société qui s'imagine sécularisée et autonome. La nouvelle religieuse est toujours source de controverse. Comme Silk (1995) le faisait remarquer, l'interprétation des événements religieux se fait toujours à la lumière des valeurs religieuses traditionnelles occidentales. Les informations sur les nouvelles religions deviennent des antithèses des *topoi*, ou lieux communs, de Silk. Rappelons que ce professeur du Trinity College avait dégagé sept lieux communs qui structureraient la couverture médiatique de la religion aux États-Unis. Selon lui, la couverture médiatique des nouvelles religions est gérée sous le thème de la fausse prophétie. Nous pensons cependant que l'on pourrait y ajouter le type hypocrisie, et qu'en plus on pourrait voir dans la secte une inversion des types bon travail, tolérance et inclusion. La secte est devenue un monstre.

CONCLUSION

La religion, telle qu'elle nous est présentée dans les médias, est standardisée en fonction d'un potentiel de spectacularité et d'exceptionnalité. Les recherches des dernières années ont révélé que les médias ont une vision négative des nouvelles religions, et que l'événement choc (meurtres, suicides, scandales...) devient un modèle exemplaire, utilisé par la suite pour décrire le phénomène. Nous avons pu repérer trois étapes dans l'évolution de la perception médiatique des nouvelles religions. Ces étapes nous laissent entrevoir une rhétorique où, comme dans les légendes urbaines, les récits médiatiques sur les nouvelles religions pointent les préoccupations d'une époque et identifient un bouc émissaire révélateur des angoisses d'une société.

À la lumière de ces analyses, il nous faut repenser les médias comme interface de la sphère privée et de la sphère publique. Les médias façonnent le réel, mais ils sont aussi façonnés par les gens, les centres de pouvoir et même les nouvelles religions. Les médias deviennent alors l'écran où est projeté notre imaginaire. Nous découvrons ainsi que la société de masse impose aux religions des règles précises en standardisant des comportements et en déterminant ce qui est tolérable. La question qui se pose alors est la suivante: les médias sont-ils devenus l'outil de propagande de la « dictature » de la masse ?

Les nouvelles technologies ont transformé les médias, qui font maintenant de l'information un spectacle. Le spectacle fait appel à l'émotion et l'émotion en religion n'est pas affaire d'institution mais d'individu. Nous vivons donc sur nos écrans le conflit entre le type église et le type mystique. Les médias construisent ainsi un objet qui sera identifié comme religion et qui aura comme référent l'individu libre, autonome et rationnel. L'institution religieuse devient par le fait même un oppresseur, un phénomène étrange, inadapté à la modernité. Le symbole par excellence de cette machine à soumission qu'est la religion est la secte religieuse. Mais comment distinguer la secte de la religion catholique ? Ce dilemme est à la source du brouillard présent lors des campagnes de panique morale qui font suite à des événements dramatiques tels Waco ou St-Casimir. La gestion médiatique de la différence religieuse est emprisonnée dans ce délire schizophrénique québécois des comptes à régler avec son passé. C'est sur cet arrière-fond que sont projetées les images sur les sectes.

NOTES

1. Pour effectuer cette analyse, nous avons utilisé les instruments bibliographiques suivants : *Point de repère. Index analytique d'articles de périodiques de langue française*. Montréal, Bibliothèque Nationale du Québec et Services documentaires Multimédia et *L'Index de l'Actualité*. Montréal, *Documensa* ; ils nous ont permis de constituer un corpus de 156 articles de périodiques et de 257 articles de journaux pour un total de 413 articles sur les nouvelles religions.

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AMBUSHING THE APOCALYPSE : Sects, Suicide and Stigma in the Media

Susan Palmer

In November, 1998, I received a call from a journalist writing a piece for the *New York Times Magazine*. He wanted me to direct him to any apocalyptic groups that were "acting up" as the Y2K approached, preferably groups that had set specific dates, that were potentially violent. I was loth to hand over names of obscure NRMs whose cooperation and trust I had cultivated over several years. Moreover, I balked at naming some fascinating groups I had not yet visited, for fear of the media's devastation of the research field. I resented the pressure to describe communities I perceived as essentially harmless and theologically creative as dangerous. As for dates, I foresaw that the groups' ludic apocalypticism - their speculative game of tossing a series of dates into the air - would be misinterpreted as dense, obstinate fundamentalism, inviting public ridicule.

I vaccilated, then compromised by naming a few well-researched NRMs, and was left with the uneasy feeling that I had lost my credibility as a "cult expert" with the *New York Times*[1].

Since *Millennium, Messiahs and Mayhem* came out[2], I have often been invited to assist the media in the "ambush" of wild religions. Journalists organize hunting expeditions and enlist talking heads as coolie-come safari-beaters, to drop their academic baggage and rush on ahead to whack the bushes, causing apocalyptic cults to charge out and "act up" in front of the cameras.

Last year I fended off a CBC news hostess who invited herself, and her camera crew, to accompany me on what I call my "magical mystery tour of Quebec". This involves a drive up the 15 North to visit the mystical pope of St Jovite, dropping by the burnt-out shell of the Solar Temple's chalet in Morin Heights, then touring the Aumistes' eclectic architecture near St. Lucie. Then we head towards l'Estrie to view the Berets Blancs' antique printing presses, and end up at Rael's UFOland past Valcourt. The news hostess was particularly intrigued by my costume changes en route, planned to suit each "Rome" I was about to enter. My vanity was piqued, and I actually weighed the educational value of the enterprise, but

since all these groups detest the media and it has taken me some time to convince them a religious studies researcher is not some sub-species of journalist, I realized a frivolous news report would undermine the delicate rapport we had established.

1. The "Cult Victim" as Comedian

"Doomsday cults" have become popular entertainment. Even embittered career apostates tire of their own tales and morphose into comedians. Gabrielle Lavallée, former plural wife of Roch «Moses» Theriault, plays Cassandra on every Quebec talk show featuring "les sects" - her truncated arm a grim testament to the depredations of prophets.

Even Solar Temple survivor, Hermann Delorme, is disgusted with the media, who have lionized him ever since he was busted by the SQ's swat team for buying guns with silencers for Luc Jouret. (Luc had told him the templars needed to practise target shooting in their backyards and didn't want to disturb the neighbours.) When I asked him to speak to my class at Concordia University, he declined :

> I've just about had it with the media. This producer I've worked with phoned me up again and I told her I'd said everything I have to say about my experience in the Solar Temple, so she said, 'I've got a good idea! Why don't you walk into the room wearing your Temple robes holding a candle?' I said, 'I won't do it! I'll look ridiculous! I don't believe in that stuff anymore!' Half an hour later her assistant phoned me back and said he'd found the perfect solution. 'You can walk in wearing the robes, then stop and tear them off and stomp on them!' I said 'Forget it! I won't do it!

A reading of news reports between 1993 and 2000 suggests that a new stereotypical portrait of the «apocalyptic cult» has formed in the public consciousness. Prophets throughout history have been viewed as politically subversive, but today they are viewed as psychopaths, promoting violent, suicidal or terrorist behavior. Prophecy today is antisocial, but it's also "un-PC". Somehow the notion that millenarian excitement somehow generates pedophilia and child abuse, as well as misogynistic and racist attitudes is firmly lodged in the public consciousness.

Like many other scholars who specialize in the esoteric field of NRMs, I find myself baffled by all the recent reports on "suicidal cults" whose supposedly sinister plans were foiled by last-minute police arrests. There is rarely anything in the news describing concrete preparations for self-inflicted violence, and the only references to mass deaths in the leaders' writings are Bible quotes. Tantalizing snippets of apocalyptic theory are cited in the press to show how crazy the "cult leader" is, snippets from which it is impossible to construct a meaningful suicide scenario.

During the New Year of 1999 the news was : "Israel orders 11 cultists deported," and I was invited into CJAD and CBC radio stations in Montreal to comment on the *Concerned Christians*. "Do apocalyptic cults pose a *real* danger as we approach Y2K?" I was asked. "Can we expect to see more of these groups, and more cult-related violence as we move into the next millennium?" I had studied the news reports: "Israeli police have detained six children and eight adult members of a Denver-based apocalyptic cult who...were planning to mark the year 2000 by committing suicide or provoking their own killings on the streets of Jerusalem." The leader, Kim Miller, predicted he would die in Jerusalem in 1991 (*Globe and Mail*, January 4 1999:A1). There was no more useful information, no mention of any weapons or concrete plans to commit violence - aside passages from *Revelation*. As I composed my comments on the case of the *Concerned Christians* - which, on the surface at least, bore all the earmarks of a manufactured emergency - I began to feel worried - not so much over the apocalyptic groups themselves - but rather over the insensitive handling of these touchy communities I was encountering in the media.

The media's fascination with «cult suicides» has become so intense, that several new religions have deemed it expedient to write press releases insisting that they are *not* planning mass suicide and explaining why self-destruction is incompatible with their eschatologies. The Family (*Release*, 1994), AMORC (Bugeaud, n.d.), the Twelve Tribes, the Raelian Religion (Parent, 1994), the Aumistes and the Church of Scientology have all reacted in this way, quite independently of each other, in the wake of the mass suicides of the Solar Temple and Heaven's Gate. Even so, allegations of planned mass suicides continue to stimulate police action, including arrests, detentions, searches, forced hospitalization and legal charges. The news reports I have followed concern three groups, the White Brotherhood in Kiev, the Isis Holistic Centre, the Aumistes at Mandarom, but there have been many others.

My purpose here is to offer a critique of the media's treatment of

apocalyptic movements and to focus on the effect of journalists' interventions on the groups themselves (or rather the human beings who participate in them). I will examine the complex symbiotic relationships between prophetic NRMs, the media and the anticult movement, and describe some of the mutually exploitative "deals" that have been forged between prophets and journalists. Finally, on the basis of my own experience as a researcher, I will raise some of the problems regarding ethics - and etiquette - that confront the scholar who is willing to assume a public role as a "cult expert" and educator, and interested in promoting a more nuanced version of the secondary reality constructions of "apocalyptic cults" that compete in the marketplace.

2. The Case of the White Brotherhood of the Ukraine

"A Religious Cult threatens mass suicide"
(*Time* November 22, 1993:46-47)
"Ukraine fears suicide cult"
(*Sunday Times*, 31 October, 1993)

Maria Devi Christos (Marina Tsyvgun), the messianic figurehead of The White Brotherhood of the Ukraine, were arrested in November 1993 on charges of inciting her youthful following to commit suicide through starvation, and for planning a spectacular suicide and resurrection for herself. "Officials of Kiev said they would be asking Interpol for help in dealing with up to 150,000 followers of the White brotherhood expected to flock to the city in the run-up to November 24, the day the cult believes the world will end."

News reports offered conflicting versions of her prophecy, that in any case seemed highly mercurial. According to the " posters and four tons of leaflets" that flooded Kiev, the "countdown" that began on November 1 anticipated Konets Cveta or the End of Light: a final cataclysm to separate sinners from the saved (Ukraine Religion, from Andrew Higgins in Kiev:28). Three revisions of "doomsday" were cited - on 24, then 14, then 11 of November. Initially, Tsyvgun said she will burn herself on the 27th and resurrect on the third day (*Daily Telegraph*, 8 Nov.1993). Later, on Ukrainian television, Tsvygun claimed that the world would not end until after her death. This was interpreted by some papers as her backing off ("the day of judgement in Kiev, having been rescheduled once, is now postponed indefinitely.")

Marina Tsyvgun is a fascinating figure. She claims to be the second

Coming of Jesus, a "living god" leading her followers, her "144,000 apostles and angels". She had formed a charismatic duo with her husband, Krivonogov, also known as Joann Swami whose charismatic role is the second John the Baptist (*The Observer*, 14 Nov.1993). He was being charged with "compelling suicide, illegal seizures of land, and violations of the law on religion". The origin of Tsyvgun's religious experience is oddly remniscent of Mother Ann Lee of the Shakers, who after losing five children in birth or infancy, felt her spirit "broke from her body like a baby leaping from the womb. The mother of Marina Tsvygun claimed her daughter became mentally unstable after an overdose of sedatives during a careless abortion." Mrs. Tsvygun said Marina was never the same after her experience on the hallucinogenic drug. She had died a clinical death, but returned to life to speak of nothing but her «mission», and within months had left to join Krivonogov's mystical sect.

Her following is composed of "teenagers and single mothers" ("Communism seeks death or glory" *Ukraine religion* n.d.) and their millenarian preparations follow the age-old pattern of pilgrimage and fasting ("Followers have travelled from Belarus, Russia, Moldova, rest of Ukraine to Kiev to fulfill their suicide pact on Sunday" (*The Times*, 12 Nov.1993). It is unclear why these youth are not eating, their behaviour is described variously as hunger strikes to protest incarceration of leader, religious "fasting," and "voluntary starvation" for the mass suicide planned to mark their messiah's death and herald the day of judgement (*The Times*, 13 Nov. 1993). It is also suggested their loss of appetite was caused by drugs.

Most news reports portray these youth as victims ; others demonize them : "one of the ministry's publications warns children not to look into the eyes of sect members for fear of being placed in a trance." Conspiracy theories and pollution fears abound as do rumours of drugs that explain the mass conversions and obstinate commitment of thousands of Ukrainian youth : "Evidence also mounted [we are never told what the evidence actually is that is "mounting"] that "mind-altering drugs" were responsible for the cults' massive following among young people." There were "increasing signs" [these signs are never itemized] that "cult members...had been brainwashed by as yet unidentifiable drugs". The suspicion was that Krivonogov, who had apparently worked in two Kiev institutes had fed followers with a "truth drug" developed as part of research into psychological warfare (*Daily Telegraph*, 1 November 1993). One Interior Ministry spokeman Alexander Naumov, even alleged that "until 1991 [K] had worked for about 3 years in a special laboratory at

Kiev's cybernetic institute where they concentrated on developing psychological trance weapons. He mentions that one of the cult's rites involved a mystery tablet of water known as the "water of the river Jordan."

The only follow-ups to the story was a news report in March 1995 that announced the trial of Tsyvgun and Krivonogov had commenced. According to Marat Shterin[3], Tsvygun was released from prison in 1998 and is still in close contact with some of her followers. She divorced Krivonogov while in prison, and a schism has formed in the movement, her followers blaming him for the 1993 persecution in Kiev, that resulted from his "false prophecy" and "pride." To date there have been no suicides among the Brotherhood.

The White Brotherhood controversy occurred in 1993, but after the Solar Temple's tragedy in 1994, «cult suicide» speculations have proliferated, notably the singular case of the Isis Holistic Centre, a small and hitherto obscure group that mutated into a hybrid between the Solar Temple and Heaven's Gate in the popular imagination.

3. The Case of the Isis Holistic Centre

> "Suicide-bound cultists 'brainwashed': Tenerife cops say Solar Temple followers believed world would end, UFO would save them" (*The Gazette*, Montreal. Saturday January 10, 1998:A17)

In January 1998, there was a police raid in Tenerife that supposedly forestalled another "Solar Temple mass suicide." The police arrested "cult leader," 57-year-old German psychoanalyst Heidi Fittkau-Garthe, who was charged with attempted murder and inducement to suicide and held without bail. Her followers, 29 Germans and a Spaniard and 5 children were questioned after her house was searched, and were quoted saying she calls herself Aida, from a reincarnation 5000 years ago, wears white and is "touched by the hand of God" (*The Guardian*, 9 January 1998).

The same *Guardian* article reports "the authorities said 30 members of the cult planned to kill themselves before 8 p.m. yesterday, when they believed the world would end. They told the police that a spaceship would collect their bodies from Teide [volcanic] mountain on Tenerife." This data was gleaned from on interview with an official in the Canary Islands a Mr. Lopez Ojeda who was quoted saying "the police believe the sect was an offshoot of the Solar Temple." The report notes, "Ms. Fittkau-Garthe could be jailed from four to eight years". The article ends with a

grim listing of the victims killed in the 1994-1995 series of Solar Temple's suicide/homicide. The fact that five children were present was emphasized, and the grizzly fate of Solar Temple children was recalled in several new reports (*Evening Standard*, "Cult Children in Suicide Bid" P.2 Thursday January 8 1999).

While the police say they foiled the plot during a "last supper" at the leader's chalet, further investigations and statements from Dr. Fittkau-Garthe's lawyer seemed to indicate that the "mass suicide" plans turned out to be preparations for a "friendly dinner" and the "poisonous chemicals" were flower essences and homeopathic medecines.

It seems the scandal may have been started by Fittkau-Garthe's brother in Dusseldorf, as the news tells us "police were tipped off by her brother" and "Interpol had received a warning last month from detectives in Germany that there may be a suicide attempt".

It turned out the Isis Holistic Center had no connection whatsoever with the Templar orders, but its leader was a former member of an international Hindu-based sect, the Brahmakumaris, founded by a Sindhi businessman in the 1940s. The Brahmakumaris *are* fervently apocalyptic and believe the world will be destroyed, then their women will rule as goddesses in the Golden Age (Babb, 1984). This, however, does not resemble the media's account of the IHC's apocalyptic scenario.

While news reports gleefully predict the accused four-to-eight-year jail sentence, they do not bother to report the outcome of the trial, that resulted in Heide Fittkau-Garthe's favour.

4. The Case of Mandarom

> "Un suicide collectif n'est pas exclu au mandarom, selon d'anciennes adeptes." *La Presse*, December 1995:B8).

Another NRM that weathered unfounded rumours of mass suicide plots, was the Aumistes, or Knights of the Golden Lotus, who occupy their "Holy City" called Mandarom near Castellane in the French Alps. After their leader died, the police reinforced their surveillance over the place for at least two weeks and insisted on overseeing the group's meetings and memorial services. When the Aumistes objected to these intrusions, the police explained that "there is a rumour that you may commit suicide like the Solar Temple"[4].

In France the Aumistes are known as one of "les sectes les plus dangereuses". Their reputation appears to have originated in a 1995 press

conference held by their leader, Gilbert Bourdin. He dressed up in orange and yellow robes with a mirrored head-dress, decked himself with religious symbols, and announced that he was Hamsah Manarah, the "Cosmoplanetary Messiah" - a fusion of the Second Coming, Muslim Mahdi, Jewish Messiah, and Buddha reincarnated - who had come to unite all faiths into one, to prevent global destruction and usher in the Golden Age. The journalists' take on the story was, to say the least, irreverent.

Introvigne (1996) notes that in the wake of the Solar Temple "carnage," anticult stories proliferated in French magazines and newspapers and more than half these articles were illustrated with photographs of Mandarom, dubbed the 'most dangerous sect' simply because it happened to be the most garishly photogenic.

The Aumistes are vegetarians who meditate, perform daily rituals with incense and tonkas, and study an ecclectic blend of oriental philosphies organized under Martinism, Theosophy and western occultism. Their aim was to build eight temples in order to usher in the Golden Age. They are small, around 100 in France, 300 in Quebec and 30-50 monks and nuns presiding over Mandarom.

They do not take drugs, stockpile weapons, practise "free love" nor plan mass suicide and appear to be no more "dangerous" than any other vegetarian meditators.

Nevertheless, their recent history manifests a level of controversy and downright persecution that is extraordinary. Mandarom has been raided repeatedly between 1992 and 1995 by armed tax and police officers. In January, 1995, 40 paramilitary gendarmes wearing bullet-proof vests cut off all roads to the Mandarom Shambhasalem monastery. Bourdin denounced the investigation as persecution, claiming he had written 21 books, but sold few. The Knights of the Golden Lotus complained that police regularly flew helicopters over the monastery, and that the army chose to practise its dive bombing drills right over their heads in the middle of the night. These tactics have escalated since the Solar Temple tragedy in 1994. ("France probes cult tax records" Reuter News Service, January 24 1995, reported in *Cult Awareness Network News*, February 1995:4).

Two television networks, TFI and France 2, cooperating with the french anticult movement, ADFI, launched a campaign portraying Mandarom as a concentration camp. An ecological activist, Robert Ferrato joined forces with ADFI to impede the building of the eight Pyramid temple, claiming Mandarom disrupted the ecological balance of the mountain. He proposed to disestablish the Holy City, evict the monks

and nuns, but to keep the picturesque city of Mandarom intact as a museum of the "horror of the cults". ("Europe scrutinizes Sects," *New York Times International*, June 20, 1996).

A reporter for the TFI network, Bernard Nicolas, played a key role in helping a former member remember her rape at the hands of Bourdin ten years ago. Bourdin was arrested on rape charges the same day that the Council of state was to have rendered its final decision regarding the building of the 8th temple. Bourdin won the case, thanks to his tatooes. When the plaintiff was asked if her alleged assailant had any distinguishing marks on his body, she couldn't recall any. Bourdin then disrobed to reveal his entire body tatooed with esoteric symbols for warding off the black witches of Martinique[5]. The charges were dismissed, but Nicholas has since assisted other women to recover memories of rape.

On December 5, 1994 the gendarmes, a judge of instruction and a procureur came to inspect Mandarom's buildings and statues in relation to Robert Ferrato's ecological objections to the planned construction of the Pyramid Temple (*Le Devoir* Nov. 27, 1994:A4). When the building permit was withdrawn, ecologist Ferrato was quoted saying, "at last the laws of the Republic are respected! It is proven today that...the Cosmoplanetary Messiah is not above urban bylaws. It is urgent now that the problem of dangerous cults are rapidly alleviated by Parliament." The news article concludes by noting that Luc Jouret, responsible for the death of fifty-three OST members, had contact with the Knights of the Golden Lotus. ("Les Chevaliers du Lotus d'or ne pourront pas construire leur temple" *La Presse*, 21 December, 1994).

Alain Decourt, grandfather of an Aumiste's seven-year-old daughter, led a demonstration in front of Mandarom and was interviewed on national television. He claimed he rarely saw his grandaughter, and feared "les massacres de Waco ou du Temple Solaire se perpetuent".

Luc Jouret's mysterious affiliation with the Aumistes is mentioned in several media reports between 1994 and 1996, adding fuel to the rumour the Aumistes are planning a mass suicide (*Le Journal de Montréal*, 12 December 1994). The facts behind this rumour are as follows. Jouret came to St. André, a town near Castellane in August 20, 1992 and sent a series of faxes and telephone phone calls to His Holiness, seeking permission to attend the first ceremony for the building of the Pyramid temple, that took place on August 22. Jouret was not present at that occasion, but of course he may have been among the 1200-odd visitors that tour Mandarom every summer of whom no record is kept[6], since Mandorom is a "Disneyland of

Sectes", according to journalist Michel Tauriac (*Figaro Magazine*, June 1991).

The suicide theme is woven throughout news reports on the Aumistes. Under one headline, "French worry about next moves of 'Cosmic Christ'", the report states French officials are "worried that another violent disaster may be in the making". The two OST suicide pacts are mentioned, then we are told Bourdin "has come under public scrutiny as a man who reportedly exercises total control over his followers."

5. How Prophets Exploit the Media

Media interest in "doomsday cults" can serve to stimulate and validate a group's millenarian excitement. This by-product of media attention is, of course, quite unforeseen and unintended by the journalists involved, but many of the prophets they interview exploit them in a calculating fashion as a megaphone for their prophecies. News reports can, unwittingly, assist in spreading the gospel and warning the world of approaching mayhem. They can also magnify and bolster a prophet's charisma. To behold the face of their beloved messiah in a newspaper or magazine will thrill and impress followers, and may even generate new disciples.

Ever since Hal Lindsey's *Late Great Planet Earth* sold 30 million copies, it has been clear that premillennialists scrupulously study the world news for "signs of the times". Is it surprising, therefore, that they also want their prophets' prophecies to *appear* in the news alongside the other "signs of the times"?

Over years of attendance at the Raelian Movement's meetings in Montreal, I have watched the guides read out headlines and circulate news clips about their prophet and messiah Rael, who claims his mother was beamed aboard a UFO and inseminated after the explosion at Hiroshima, so that the extraterrestrials could send a "messenger" to humanity at the onset of the "Age of Apocalype." The assembled Raelians clap and whistle, and the fact that the tone of these reports are tongue-in-cheek, downright disrespectful or outright hostile doesn't phase them a bit. After all, Rael received a mandate from the alien visitors to "spread the message," so *any* news is good news. Raelians are reassured they are making an impact on society, so that (according to their slogan) "Together we can change the world!"

The Raelians hold an annual Planetary Week when they stage demonstrations calculated to stir up a media blitz, as in 1992 when they

drove the "condomobile" around the Quebec high schools during recess, and their Priest Guides, dressed in white padded suits with swastika medallions passed out 10,000 free condom packets (decorated with flying saucers) to the bemused teenagers whose Catholic School Board had just voted against installing condom machines in the lavatories. The newspapers had a photo-fest - the pink van decorated with UFOs and condoms, the transexual Priestguide who headed the operation, the chubby teens' puzzled expressions as they examined the packets...but did they realize they were helping the Raelians prepare humanity for the Elohim's mass landing?

Some prophets are masters at manipulating the media. Farrakhan launched the Million Man March that was more than just a social statement; it was a millenarian fantasy pageant - a partial fulfillment of Elijah Muhammad's *Message to the Black Man in America* - that appeared on the cover of *Time* and *Newsweek.*

Even going on the Jerry Springer Show, which means assenting to an ordeal of ritual humiliation at the hands of Jerry's well-trained camera crew and clacker audience, can be turned to a prophet's advantage. A striking instance of this was the show featuring the Reverend Chris Korda, a beautiful transvestite prophet, founder of the cybernetic Church of Euthanasia. Naturally, Jerry expressed sanctimonious horror at three of Korda's four "pillars of faith": cannibalism, suicide, abortion (Jerry gingerly sidestepped "sodomy" - presumably wary of offending gays). Korda, crossing her elegant ladies' legs, wearing a sexy 50's-style shift and Jackie O hairdo, delivered her well-rehearsed radical ecological message in her rapid staccato tenor. But she was also prepared for the obligatory muzzle. She and her three henchmen had brought placards and props, so that when Jerry began firing false accusations at her and ignored her efforts to respond, her team silently and eloquently held up the plastic chicken affixed to a crucifix, and a banner recommending that the TV audience "EAT A QUEER FOETUS FOR JESUS". In this way, they managed to communicate their doomsday message quite efficiently despite overwhelming odds.

Thus, media attention can not only strengthen a group's morale, it can actually reinforce members' conviction that the end of the world is indeed at hand, and their prophet is "making a difference".

6. How the Media Can Trigger Violence

Media attention is not always welcome, however. It can stimulate

sinister undercurrents within a group's apocalyptic theology and sometimes trigger a violent response. Prophets tend to flip-flop between optimistic scenarios of gradual salvation for all humanity, and pessimistic predictions of cataclysm. Public ridicule has been known to drive small prophetic groups underground, to the consternation of relatives. Critical news reports have at times had a combustible effect on the core group's fiery visions and prompted them to assist in *bringing on the endtime*!

This occurred in the case of Heaven's Gate during September 1975 when "The Two" (later known as Ti and Do) gave a public lecture in Waldport, Oregon and attracted 230 converts for their "human individual metamorphosis". The event was sensationalized in nationwide news coverage, that played up the enormous sacrifices demanded of converts, and ridiculed The Twos' claim to be the "two witnesses" of *Revelation* who will be slain and then resurrected before Jesus' Return. The Two cancelled all future lectures, and announced that they were «withdrawing into the wilderness» and that "the harvest is closed." They hid until 1976 when they re-emerged in Wyoming and announced that "the demonstration" (the assassination/resurrection of the Two Witnesses) had been called off, because their "assassination" by the press had more than adequately fulfilled that prophecy! (Balch, 1995).

From this time on, Ti and Do saw the outside world as hostile and contaminating, and their followers were obliged to cut off contact with friends and relatives - conditions which made it possible for Ti and Do to communicate their otherworldy vision of reality. Eventually, 36 "classmates" found it quite plausible to "drop the body" in order to board the space ship trailing Hale Bopp.

A reading of the suicide notes ("Testament") written by the leaders of the Solar Temple, makes it clear that at least one of the factors that convinced Luc Jouret that the Templars' mission to "wake up humanity" had failed (at least this time round) was the negative press he had been receiving in France, Martinique and Quebec, that had made it necessary to cancel his conference series. The fourth letter, "To those who love justice," complained bitterly of biased news reportage of the arms scandal involving Luc Jouret and Hydro Quebec official, Jacques Vinet : "Why does the mass media, who organized the scandal in collaboration with judicial and political authorities, obstinately refrain from clearly stating the decisions of the Court in regard to the three persons accused?"

Announcing "we have decided to withdraw ourselves from this world with all lucidity and in full consciousness," the leaders of the Solar Temple suddenly abandoned their more "upbeat" plan to use the organic

farming commune in St-Anne-de-Perade, Que., as a "Noah's Ark" of "consciousness" and ritual magic to save the planet, and decided to abort mission earth and "return to Sirius," setting explosive devices, drugging and shooting fellow templars who "are conscious, but do not realize it yet".

But while media attention has, at times, sparked violent responses from apocalyptic groups, publicity can - and should be - a healthy thing. Public knowledge can shield defectors (and future "joiners") against certain dangers posed by upstart religions with criminal tendencies.

A chilling tale emerged from the court case involving the Japanese prophet, Asahara who ordered his top aides to throw sarin nerve gas in the Tokyo subway. The tale involves a major TV network known as TBS that could have provided safety to an early critic of Aum Shinrikyo (Asahara's religious organization) and a warning to the public at large.

Sakamoto Tsutsumi, a lawyer representing an ex-member, presented a serious threat to the group, for he had discovered a fool-proof way to "get" Asahara on charges of fraud. The blind prophet had been selling phials of his own blood at an exhorbitant price to his followers, the group's literature claiming it had been sent to a university laboratory and was found to contain a "a unique form of DNA which could be passed to disciples through the initiation. Sakamoto found that no such test had been made" Reader, 2000:170)

In October 1989, the lawyer went to TBS for a taped interview, in the course of which he exposed the nefarious activities of Aum Shinrikyo, an interview that was scheduled to be shown on an afternoon news-entertainment show. Senior officials of Aum Shinrikyo visited the network and negotiated a private showing of the interview the day before it was to be aired, and convinced the TV producers to withdraw it.

According to the prosecuting lawyer in the case, Asahara said, "this lawyer is a problem. We must *poa* [kill] him," snapping his fingers. Six of his followers broke into the lawyer's apartment at 3 a.m., kidnapped him, his wife and baby son, murdered them and hid the bodies.

Now it is a strict policy never to show programs to concerned parties before they are broadcast. Questions were raised in court probing the relationship between the TV network and Aum Shinrikyo and whether there had been a *TBS no taishitsu* [TBS coverup]. Why wasn't the cancelled interview reported to the police after the lawyer's family disappeared in suspicious circumstances? The opinion was expressed in court that if the interview *had* been aired, as promised, it would have been pointless - and too obvious - to silence the lawyer.

TBS executives appeared before Japan's Diet, where it was suggested that the network had formed cozy ties with the "cult" and used producers with close cult ties in order to gain access for exclusive stories - such as an interview with Asahara right after the lawyer's murder. TBS programming was cut. Presumably, this is a uniquely Japanese situation that "couldn't happen over here".

Now, I am not blaming the press for driving cults to violence, nor proposing that journalists should steer clear of "doomsday cults", I am merely suggesting that the media needs to be educated - to develop more awareness of what and who they are dealing with; and to try to treat the "ultimate concerns" of unconventional religions, however bizarre and irrational they appear to nonbelievers, with more respect.

7. Kangaroo Courts in the Media

When new religious prophets begin to attract attention and arouse controversy, it is not uncommon for an interested party - a parent seeking custody, a former member, a rival business, to level serious allegations against the prophet. These allegations/charges may be the "sticky" kind that are at once socially stigmatizing and yet impossible to disprove - bygone rapes, child molestations, suicidal intentions. One finds a disturbing tendency in these news reports to assume the accused is guilt simply because he or she is weird. The journalist acts like a prosecuting lawyer in laying forth the "evidence" that encourages the public to brand the accused as guilty. The most primitive parody of "justice" follows, in which three kinds of "evidence" are presented.

First, *common symbols* are trotted out. Since NRMs emerge out of a cultic milieu where they draw upon a rich subterranean "stew" of occult symbols and rituals, one finds the dwarf star Sirius and the sanskrit chant "AUM" cropping up over and over again in many new religious systems. The press pounces upon these as "proof" the group is planning mass suicide or terrorist attacks. The Aumistes' unfortunate resemblance to the name of the Japanese Aum Shinrikyo did not pass unnoticed. Since the Solar Temple perpetrated their homicidal "flight" to Sirius, the dog star has become inauspicious. Quebec's New Age group, the Vortex of the Star of David practises fasting to facilitate an "ascension" to Sirius. Not surprisingly, a father seeking custody of his son who exhibited sudden weight loss, found it useful to compare the Vortex to the Solar Temple.

A second strategy of the prosecuting journalist is to prove a prophet's guilt is through the accumulation of unrelated *charges*. In a manner

similar to the 1993 news stories about David Koresh, that raised allegations of polygamy, child beating, and statutory rape to bolster the plausibility of the ATF's illegal weapons charges. The journalist will mention a slew of alleged "crimes" and mideneanours that are quite irrelevant and unrelated. By sheer weight of numbers, the message is conveyed that this "cult leader" person is certainly deviant, and hence probably guilty.

Finally, bizarre snippets of the group's apocalyptic beliefs will be quoted out of context, to convey the impression that the leader is nuts, hence probably guilty. When Gilbert Bourdin was arrested on June 12, 1995, one newspaper outlined the rape charges, then concluded with zany tidbits of Bourdin's wildest prophecies: "Bourdin claims to have shortened the Gulf war by freezing the region's karma. He also claims to be shielding Earth from alien invaders." ("High in French Alps, cult attracts followers - and government scrutiny" by William J. Kole, *Associated Press*, Feb.5, 1996, reprinted in *The Cult Observer*, Feb. 1996:4-5).

That the media in all its hubris likes to set up a kangaroo court in the event of a cult scandal is illustrated by my own experience. In May 1999 Quebec's mystical pope, Gregory XVII, was widely reported in the press as being "in hiding". The RCMP had just searched his monastery in St Jovite in connection with charges of gross indecency (laid by ex-members who had been raised in the children's wing of the monastery). I was invited to appear on a major Canadian television network to express my views on the situation, since I had visited Pope Gregory several times and written an encyclopedia entry on the order. The morning of the scheduled interview, the host's assistant phoned and explained they had decided they weren't interested in hearing what I had to say in general, what they needed was for me to say. "I think he's guilty!" - in short, a "soundbite" that was a verdict. "I can't do that!" I protested, "that's up to the court to decide."

The assistant put me on hold while he conferred with his boss.... "OK, you can say he's *not* guilty, that's just as good." A long argument ensued where I insisted that surely even mystical popes should be "presumed innocent" and, moreover, I didn't want to get "egg on my face". The assistant concluded our discussion by saying, "Look! We here believe he's guilty. We've watched *hours* of taped interviews with ex-members here in the studio, and they're *crying*!" Later I discovered that the mystical pope had *not* in fact been hiding. He happened to by traveling in France at the time of the raid, and barely managed to stand before the judge in time to avoid an arrest, thanks to a strong backwind on his Air France flight -

which his monks believe was divinely sent.

8. How the Media Researches NRMs: A Stern Critique

Media interpretations of any data concerning "cults" is both pat and precipitous. In research the interpretation should not precede the fact-finding process. But journalists are often paid to do just that. Journalists rarely go in with an open mind, prepared to be surprised or actually learn something. Usually they are too rushed - the story has to be on the editor's desk by morning. I find many of them approach their research on "cults" with a smug attitude, their "takes" are replete with hackneyed cliches and truisms. What they want from me, the "cult expert," is to "just fill in the facts, Mam, the weirder the better".

Journalists often excuse their lack of research by claiming the group refused to answer their phone calls or let them go in. When I have asked some of these groups whether this were actually so, they reply no message was left on their answering machines, no requests for visits were made.

Some journalists expect me to be their unpaid ghost writer for their schlocky stories. One Toronto journalist phoned up to say, "my editor has assigned me to do a story on a *woman* who is a *survivor* of an *apocalyptic cult*" and asked me to put her in touch with one of my female informants. I couldn't and didn't want to help her. I have interviewed several woman who participated in different "world ends," but their experiences would not conform to the editor's prescriptions. One woman related a long drawn-out (actually rather boring) process of prophetic recasting and reinterpretation among the core group. Another claimed the "end *did* happen after all - but invisibly : And I felt it deep inside - it was like WOW!" Another woman had me in stitches describing her leader's hesitant indecision at the critical juncture. These were not grim female "victims" and noble "survivors," but real people who had their own, idiosyncratic responses to an anomalous situation. I was annoyed by her request, and it is a good example of how the media ignores the basic guidelines for reliable research.

Journalists embrace reductionism and oversimplification. The media exhibits a tendency to confuse mythic violence with real-life, concrete plans to take human life. All religions address the problem, the mystery of death. Every apocalyptic religion offers a solution to individual death by promising a spectacular group carnage that will end happily in collective salvation and immortality. For the FBI, how imminent this collective death is, how literally the prophecies are interpreted seems to

indicate the relative danger of the situation. But does it? Here a knowledge of the history of heresy is useful. It is a dangerous and unfair assumption that *any* group that fits the «apocalyptic» category is heading for mass suicide or some form of erratic violence: "It's a Jonestown waiting to happen!"

As Beckford (1995) notes, in stories about «cults,» «conflict is the leitmotiv». The readers are reminded of the *sequence* of reported events into which the story can be slotted. Stories on The Family and the Church Universal in 1994 and 1995 were introduced in the following manner : "If you think Waco was bad, consider who could be next!"; "The Church Universal and Triumphant - another Waco?"; "In the wake of Waco". This creates a dark, turbulent mood, even if the story is about some apparently bland, innocuous activity. The NOW Show on the Family began with the host saying "Family members *begged* us not to compare them with the Branch Davidians at Waco" - then cut to footage the flaming of Mt Carmel compound.

Journalists exhibit a blatant disregard for research ethics in gathering material on "apocalyptic cults." An outstanding example is the 1998 *Dateline* documentary on the Aquarian Foundation in Sedona Arizona. Two "undercover staffers" pretending to be prospective converts go into the "cult" wearing hidden cameras and microphones, evidently determined to prove what a jerk the leader is, and to expose his "brainwashing" procedures that supposedly extend "into the most intimate aspects of members' lives". This method, known in the field as "covert research" is dubious in itself, but *Dateline* compounds it with a foray into "ambush journalism". In the middle of a television interview with Gabriel, prophet-channeler of extraterrestrials, the two reporters suddenly unmask themselves and confront him, accusing him, among other things, of polygamy (it turns out he had an extra-marital fling that his wife is understanding about, and has hinted that the aliens are not constrained by monogamy on their planet). In the end, the viewer is left with the impression that the prophet Gabriel, despite his Charlton Heston-style Old Testament robes, is a gentle and mature individual who responds to this hostile assault on his charisma with remarkable humour and self-restraint, whereas the journalists come across as sleazy, self-important bigots. (My students' response when I showed this video in my Research Methods class was, «Well Miss, what do you expect? It's *Dateline*!)

9. Apocalypse? Whatever....

Why waste time getting the theology straight when, after all, "crazy is crazy"? This sums up the research method of journalists who rarely bother to differentiate between types of eschatology. All apocalyptic dramas - Christian, Theosophical, New Age, Muslim, Hindu, Sci Fi - are smushed together. Even if Christian fundamentalists are in the limelight, words like "Armageddon", "Judgement Day," "doomsday," "tribulation", "Second Coming" will be used interchangeably - as buzz words illustrating the nutso, whacko quality of the group. The doctrinal, mythic or historical meaning of terms are discarded, but a word makes the headlines for its sound, or alliterative effect. Actually, these terms *do* have distinct and precise meanings, but when prophets wield these terms to communicate their mystical revelatory experiences, journalists diagnose diction as a *symptom* of mental illness, rather than as proof of competence in symbolic languages of venerable religious traditions which are, after all, the tools of a prophet's trade.

10. The Best Weapon Against Dogma is a Stigma!

While the twentieth century recedes into the past, "apocalyptic cults" nevertheless continue to exert a strong fascination over the public - a fascination which is ambivalent. News reports on these groups are written to evoke laughter, pity, comtempt or fear. Sects can get very silly during their critical moments of expectation (see the Monte Python Skit of the "End of the World"). They may strike us as endearingly eccentric, like the millionaire couple who is building an underground bunker in northern Ontario. On rare occasions millenarians turn out to be tragic victims (see *Waco: the Rules of Engagement*). Recently, they have unmasked themselves as mass murderers and terrorists - like the Japanese Aum Shinrikyo who tried to bring on "Harumageddon" by releasing nerve gas in the subway (Mullins, 1997). This complexity, this sheer variety, is rarely reflected in media cliche-ridden articles.

When reporting on "apocalyptic cults" the media appear to have adopted the motto: "the best weapon against a dogma is a stigma". The media *masks* its own intolerance by blowing the whistle on intolerance; by sanctimoniously alerting the public to the existence of putatively "intolerant" groups in our social midst. This establishes a moral highground where the media can hunker down with its readers and indulge in thoroughly enjoyable sessions of "cult bashing" that involve political

outcasting, the venting of prejudices, and the trotting out of tired sterotypes. Bristling with outraged tolerance, secular-minded journalists condemn religious extremists for branding the bulk of humanity as sinners and excluding them from their plan of salvation. But ironically, while these news reports deplore the irrational fantasies of the apocalyptic imagination, at the same time they are busy constructing a parallel fantasy of secular apocalypticism - that "apocalyptic cults" - those crazy, criminal "Jonestowns waiting to happen" are getting ready to "act up" as we near the cusp of 2001 - or 2002.

Certainly there are dangers lurking in some groups, for millenarian excitement can unleash antinomian impulses. The 144,000 "chosen ones" may regard outsiders as evil or subhuman. If Armageddon is about to break out, why not take a few potshots at the "enemy" before Christ returns? If the world is about to be "spaded over" why not "drop the vehicle" and make the soul leap to Heaven? But this is exactly why it is essential that we secular types should take care to separate the "sheep from the goats" and stop persecuting harmless theological innovators.

One does not need to be a prophet to foresee future injustices, even tragedies equivalent to Waco, that are likely to arise out of the public's deeply entrenched, low-level prejudice against "apocalyptic cults". This prejudice is reinforced by journalists' lack of an open-mind and long-term curiosity concerning new religions, a lack that renders them incompetent in dealing with such a slippery, complex and paradoxical phenomenon as apocalypticism. Negative press puts pressure on law enforcement to "do something," and the stigmatization of premillenialists as brainwashed zombies who have lost their human status, can lead to serious violations of human rights.

The Chinese government's 1999-2000 crackdown on Falun Gong practitioners provides a particularly disturbing example of this pattern. Over fifty practitioners have died and thousands have been incarcerated in labour camps or mental hospitals. Many of the deaths, which occur in the context of torture, hunger strikes leading to forced feeding, or attempted escape from trains carrying prisoners to the camps - have been explained by the Chinese government as "suicides". The suicide stigma is a sinister thing, whether it is used by Chinese or American authorities. The assumption is that these "cultists" have *already* renounced their human status and rights as individuals by embracing a morbid salvation, hence any violation of those rights is justifiable.

NOTES

[1]. This article appeared as "Apocalypse Now. No, Really. Now!" by Alex Heard and Peter Klebnikov, *The New York Times Magazine*, December 27, 1998:40-43. I was pleasantly surprised, because it featured obscure and interesting groups, and was more descriptive than judgemental.

[2]. Edited by Thomas Robbins and Susan Palmer, 1997. New York:Routledge.

[3]. Marat Shterin is a distinguished scholar in Russia, and a Ph.D candidate in Sociology at the London School of Economics.

[4]. Interview with Ekta.

[5]. Personal communication.

[6]. Interview with Ekta, September 1999.

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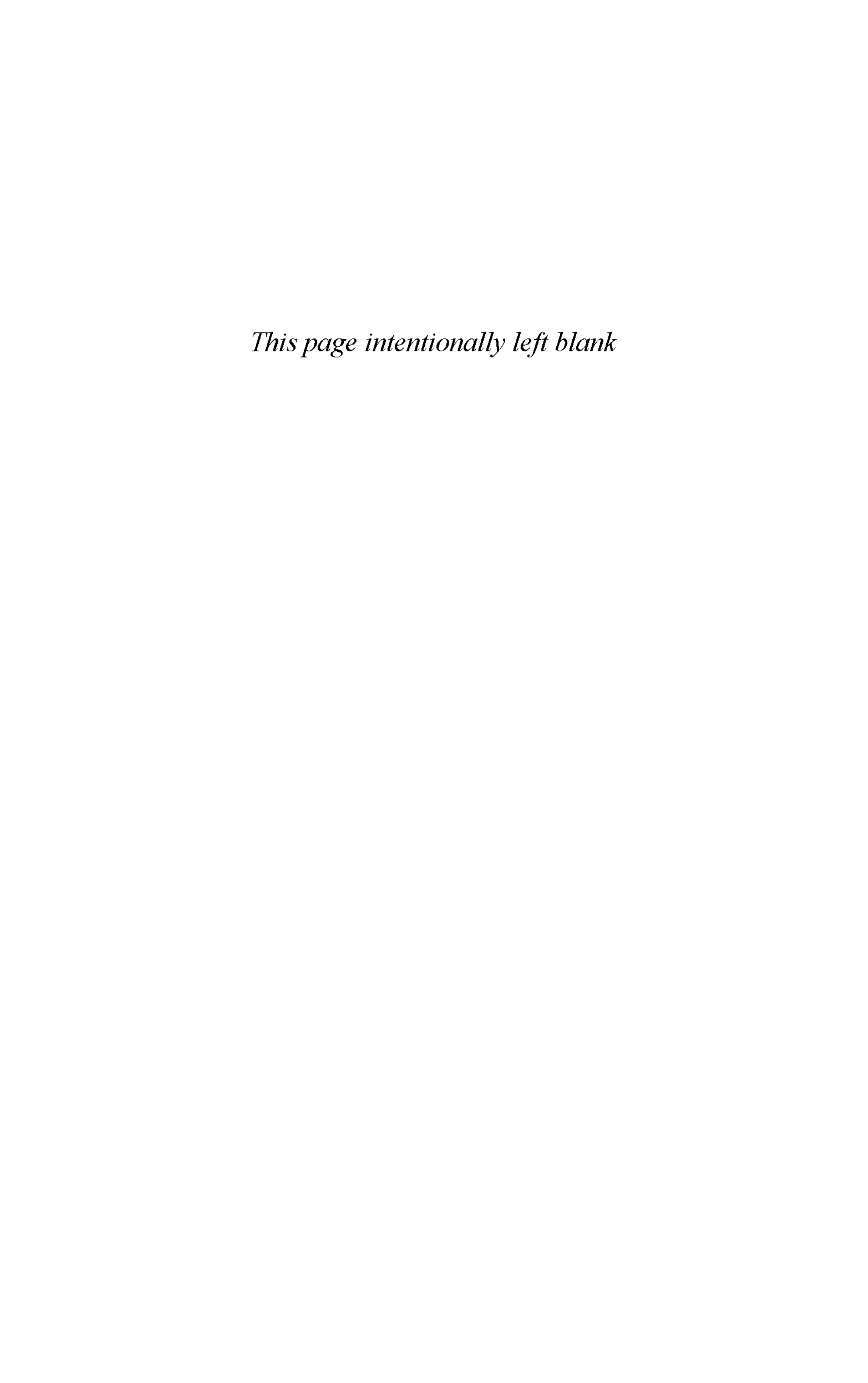
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TROISIÈME PARTIE / PART III

PROSPECTEURS ET GESTIONNAIRES DE DIEUX

SACRED SPACE CONTESTED BOUNDARIES



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LAW, SOCIAL CONTROL AND MINORITY RELIGIONS

James T. Richardson

INTRODUCTION

Law represents one of the paramount institutions of social control in any modern society. Certainly the way the legal system works varies by society, with, to note two important characteristics, some having more pervasive legal systems than others, thus allowing more litigation of all kinds (including more private legal actions), and some legal systems being granted more autonomy than others.

Whatever the dominant characteristics of a given legal system, its use as a major device of social control is not in dispute. The way that role is exercised varies in ways understandable to those who study law as an institution and how it relates to other institutional structures in a society, as well as how it is defined within the culture of a given society.

This chapter will focus on the way legal systems in modern societies impinge upon and interact with religious groups and institutions, with a special emphasis on social control of controversial minority religions, sometimes referred to as "sects," "cults," or "new religions"[1]. First, some rudimentary theoretical issues from the sociology of law that are relevant to explaining that relationship will be briefly addressed.

1. Pervasiveness of legal systems

Societies vary greatly in terms of the pervasiveness of their legal systems. By pervasiveness we mean simply how thoroughly the legal system acts upon individuals, groups, organizations, and institutions within a society. Certainly there is an obvious distinction between modern and pre-modern societies in terms of pervasiveness, but, we can also discern important differences on this variable within the category of modern societies, particularly as it pertains to issues of religion.

For instance, in the United States there is a very pervasive legal system that touches virtually every person's life on a regular basis. The U.S. has the reputation of being an extremely litigious society, especially when compared to some others such as Japan where citizens and organizations seem much less interested in using the legal system for dispute resolution (Kidder, 1983). But, when one considers religion and religious freedom within the context of the U.S., there is an interesting caveat that represents a limit to pervasiveness of the legal system in matters religious.

The Constitution of the United States affords considerable protection for religious beliefs and behaviors[2]. Certainly the protection is not absolute, and thus, for example, polygamy, snake handling, and use of LSD in religious services are all against the law in the U.S. But, it is also quite legal to sacrifice chickens in a religious service in the U.S., as indicated by a unanimous Supreme Court opinion just a few years ago, and it is also legal for open and aggressive proselytizing by smaller and newer faiths to take place on the streets of America, again as affirmed by the nation's highest court.

Certainly, religion does not serve in the U.S. as a valid shield against overt law-breaking, although it is worth noting that even a straight-forward appearing episode of violating a law takes on a special meaning if claims are made that the person was acting out of religious motivations. Most cases involving such claims will receive special attention to make certain that the person's rights in that area are not violated.

Thus, the constitutional protection afforded religion stands as something of a bulwark against incursion of the state into things religious in the U.S. This makes it more difficult (but not impossible; see Richardson, 1995a,b) for the state to exert social control over religion in general and over newer faiths, including the controversial ones that have caught the attention of the media and the general public in recent decades.

In most European countries such constitutional protections do not exist or they are not enforced to the same extent as is the case in the U.S. In large part this may be a function of the historical fact of state churches having evolved within the European context[3]. Thus, in many European countries there is an officially sanctioned type of religion, even if the specific formal arrangements for that sanctioning differ somewhat. Sometimes that officially sanctioned religion is dual in nature, as in Germany or the Netherlands, both of which have both Catholicism and a type of Protestantism enjoying official status.

In societies with an official church or churches there may well be a tendency for the legal system to get involved in enforcing that official sanction. Thus, the legal system may work with other institutions in the

society to make sure that the official brand of religion is adhered to by citizens. In such situations a government may pervade things religious to a much greater extent than in other Western democracies.

For instance, it is clear that the legal system of France is more prone to enforce normative behavior in the area of religion than is the case in the Netherlands or Italy (see Beckford, 1985; Kranenborg, 1994; Richardson and van Driel, 1994; Introvigne, 1994). It is also clear that in some European societies conflict may develop between the political institution and the legal system over the issue of religious freedom. Such seems to be the case in Germany at present, where minority faiths are under considerable pressure from political authorities, but have some protection afforded them because of a relatively autonomous legal system, a variable to which we now turn our attention.

2. Autonomy of legal systems

A legal system may, as indicated, have more or less autonomy. Stated another way, in some societies judges are able to exercise more discretion in their decision making than is the case in other societies. In some societies the legal system may be dominated by other institutions, such as the political or military institutions, or even by a church that has special recognition as the state church. It is clear, for example, that the legal system in the United States enjoys considerable autonomy compared to many other societies. The legal system has seen an evolution of a historical role in America that allows it, on occasion, to dominate the Executive Branch (the Presidency), as well as the Congress, through the process of having the power to declare laws passed by Congress unconstitutional, or being able to review actions of the Executive Branch for legality[4].

Many Western European societies have relatively autonomous legal systems, with the courts able, to varying degrees, to exercise independence from other institutional structures. Thus, we see the court systems of Italy, Germany, the United Kingdom, and a number of other countries able to function with considerable freedom from direct intervention by other institutional structures. There are variations in the autonomy of judicial systems among these European societies, of course, with, for instance, France having a less autonomous judicial system than is the case with Italy, a situation with implications for the way minority faiths are dealt with in those societies.

The case of Hungary is very interesting, given its recent history under communism. This society also demonstrates a legal system with considerable

autonomy, especially with the power assumed by and granted to its Constitutional Court. Kim Schepple describes how this court regularly declares, with impunity, a significant proportion of the laws passed by the Hungarian Parliament unconstitutional. She also describes how its advice is sought by the Parliament as it considers new legislation. Thus, in a very short time, Hungary has come to resemble more long-term democracies of the West in terms of the degree of autonomy granted its judiciary[5].

Once a major court achieves some degree of autonomy, this may empower other courts within that system, as they attempt to "measure up" to the autonomy of courts which are above them or which handle different spheres of responsibility within the legal hierarchy (such as a bankruptcy court, a maritime court, or one that deals with patents, all of which exist in the U.S. as separate federal court systems). Thus autonomy seems potentially generalizable throughout a legal system, with lower or different courts being emboldened to act with authority in settling various disputes if other courts are able to exercise autonomous power. And, the citizenry, aware of the authority of the higher courts, may assume that lower courts share this mantle of autonomy, that is, citizens tend to abide by court decisions more in societies where there is a shared understanding that the courts do have independent power.

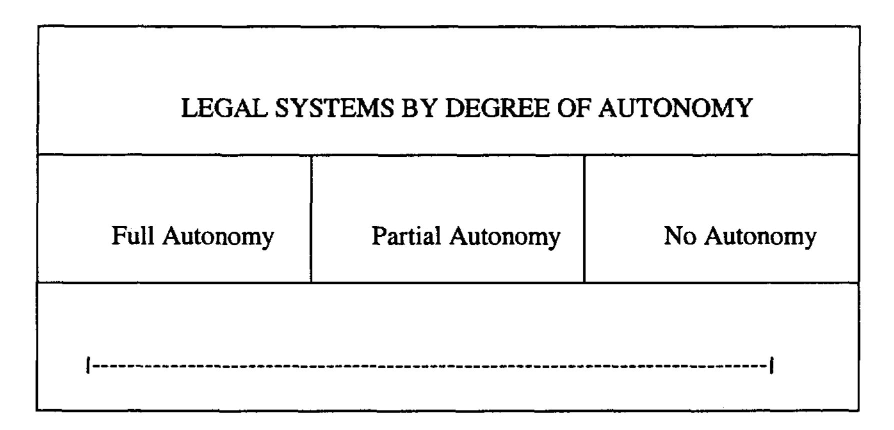
Sharply contrasted with high degrees of autonomy are situations where the courts serve only the pleasure of despotic rulers, and its functionaries are appointed by such entities. One only needs to think of countries such as Iran, Iraq, Libya, or courts functioning under communism to grasp this point. Judges in those circumstances understand that they had little autonomy, and that if they chose to exercise autonomy their jobs if not their lives would be on the line. Judges under such systems understand that they are to assist in implementing an ideology, whether it be communist, radical fundamentalist Islam, or some other set of beliefs.

Somewhere in between high autonomy and low autonomy societies are others whose legal systems have not achieved significant autonomy, but which have varying degrees of freedom to act independent of political, religious, or military institutions. Falling into this category are some of the societies that were under communism for so many decades. It is unrealistic to think that they would change overnight into full-blown democracies, with legal systems functioning as they do in more advanced industrial societies in the West. Again, Hungary seems an anomalous case in this regard, but the circumstances of the history of this "court-centric" approach taken by Hungary are quite unusual (Shepple, 1996).

The typology just outlined can be presented pictorially as follows, with

different societies placed at various locations on a continuum of autonomy:

FIGURE 1



To say that a legal system has autonomy does not mean, of course, that the courts are free of all considerations of external influence, for courts must act within a cultural milieu, with its specific cultural values and beliefs, which include values and beliefs concerning religion and religious groups. Thus, judges and other court personnel (which in some countries include, quite importantly, individual citizens serving as jurors) are individuals who share to varying degrees the values and beliefs of that culture, and, not surprisingly, those personnel who make up the legal institutions act out those values as they do their work within those institutions. Thus, one can have actors within completely autonomous legal systems acting in ways that to some observers seem quite discriminatory and in opposition to basic human and civil rights. This could occur, not because of coercion of legal officials but simply because those filling roles within the legal system were acting out their values and beliefs in a way that discriminates.

Court systems in a society might implement racist values, for example, as some observers have said about the United States' legal system that incarcerates large numbers of Black men. Court systems might favor one ethnic group over another, granting a higher legal status to one group or another because of cultural values sanctioning such outcomes[6].

Most germane for our purposes here, legal systems might favor one religious heritage over others, granting practitioners of the chosen religion a special place and special treatment within a legal system. This is another way of saying that legal systems, even though they have considerable autonomy,

might not support religious freedom for all its citizens, because of implementation of cultural values that denigrate certain religions while promoting others.

The consideration of cultural values can be illustrated by integrating with Figure 1, as follows, possible ways that the cultural value for religious freedom (dichotomized here for purposes of illustration) might relate to the variable of autonomy of legal systems :

TABLE 1

RELATIONSHIP OF AUTONOMY OF THE LEGAL SYSTEM AND CULTURAL VALUES FAVORING RELIGIOUS FREEDOM

	Degree of Autonomy		
Cultural Values	Full	Partial	None
Favoring Religious Freedom			
Not Favoring Religious Freedom			

This table shows that there are several possible ways that these two variables could relate. As societies are classified on these two variables, logic might suggest that higher levels of autonomy and more religious freedom would occur together more frequently, as would cases of little religious freedom and low autonomy (i.e, cases would group in the upper left and lower right parts of the table)[7]. However, it is an empirical question as to the actual distribution of cases within the table.

3. Pluralism and religious freedom

It is axiomatic that religious freedom is of interest only in pluralistic societies. If a society is homogeneous in terms of religion, then there would be little concern about religious freedom within that society. If all agreed on religious matters, who would there be to raise the question of rights of religious minorities, and why would it even be raised?[8]

Having stated the axiom, of course, we need to acknowledge that virtually all societies are religiously pluralistic to some degree, which means that concerns about religious freedom issues exist in all modern societies. At issue is the degree of pluralism that exists in a society and what effect that has on religious minorities trying to practice their religion openly. One might predict some strong relationships between the degree of pluralism present in a society and the level of concern about religious freedom. Thus, for instance we might expect a society that is structurally quite pluralistic also to have a relatively high degree of religious freedom in terms of both formal policy and practical application of that policy. Thus we would posit a relationship that can be shown on the following table:

TABLE 2

RELATIONSHIP OF PLURALISM TO RELIGIOUS FREEDOM

	Structural Pluralism Present		
Religious Freedom	High	Medium	Low
High			
Medium			
Low			

We would assume that most cases would fall on the diagonal from upper left to lower right, and cases that deviated from this expectation would require explanation. For instance, if a highly pluralistic society in terms of religion

did not have much religious freedom, then we would predict that a considerable amount of resources would have to be allocated to suppressing religious practices of those groups which were not favored by the state.

3.1 Pluralism in Former Communist Countries

Of special interest again are the former communist countries, virtually all of which were relatively homogeneous prior to the advent of communism at the time of the Bolshevik Revolution in 1917 and then the later expansion of communism after WWII with the establishment of the Soviet Union. To varying degrees Communism supplanted religion in those societies, accomplishing this impressively in East Germany, for instance, while failing miserably in Poland, where the Catholic Church managed actually to augment its position in society during the communist decades.

Even before the fall of communism these societies were experiencing the effects of religious pluralism, as Western and Eastern influences were being felt, even if under difficult conditions. But after the fall, a virtual flood of new religions from the West arrived, and there was also something akin to a new "rush hour of the gods" developed within these societies, as citizens sought new answers to perennial questions of life and death[9]. The old god of communism had fallen, and replacements were sought from the West and from indigenous religions.

Into this spiritual maelstrom came also new exertions of formerly dominant churches, seeking their historical place of preeminence in their societies. These efforts usually meant seeking to stem the tide of pluralism that had evolved and which had been given great impetus by the fall of communism. Thus throughout the former communist world battles have erupted over the issue of religious freedom.

Formerly dominant and/or official churches, whose leaders liked the concept of religious freedom in the late 1980s and early 90s when they were still suffering under communist dominance, are no longer sure that religious freedom is such a good idea. They now want to limit competition from the newer faiths, and seem to assume that this can be done by legal edict. Thus they have abandoned not only communism but one of the real truths of Marxism, that being that certain historical forces cannot be resisted.

Pluralism is an inexorable historical force that will continue to develop within the former communist world whether it is welcomed by dominant political and religious forces or not[10]. Short of violent repression, there is simply no way pluralism can be stopped, and even violent repression does not seem able to stop the spread of new and religious ideas for the long-term.

This is especially the case since the formerly communist societies are in effect already quite pluralistic in nature, even if that fact is unrecognized by societal leaders.

Also, these societies have been infused with Western values, a process that also was occurring even before the fall of communism, but which was greatly accelerated by that event. These values include some degree of recognition of human and civil rights, including religious freedom. So, the combination of structural pluralism, that is the presence of people from many different religious groups, coupled with the Westernization of values that include individual autonomy means that the former communist countries will have a difficult time going back to the pre-communist situations, although it will not be for want of trying in some situations, such as Russia and Poland[11].

3.2 Pluralism in Western Europe

Western European countries are also having to deal with pluralism, and some of them are having considerable difficulty doing so of late. This seems to be particularly the case in recent years in France, Germany, and Belgium, although there have been some problems in other societies as well. But, societies such as the Netherlands (Kranenberg, 1994) seem relatively free of such difficulties, and Denmark also has made major progress (Rothstein, 1998).

Western European societies have been quite pluralistic for some time, and that trend continues, even if some European leaders do not want to admit this development. Major battles have erupted over "new religions," sometimes called by the derogatory terms "cult" or "sect", as well as older religious minorities such as Jehovah's Witnesses. Severe restrictions have been placed on minority and new faiths in some Western European countries, to such an extent as to have provoked international comment and condemnation in some cases, such as with Germany and France (Richardson and Introvigne, 2001; Richardson, 2001). These developments have, regrettably, been used by some former communist countries to justify actions being taken also to limit religious competition and re-establish formerly dominant churches as *de facto* if not *de jure* state churches (See Shterin and Richardson, 1998).

One method for handling pluralism within the European context, which is influenced by its history of state sanctioned churches, is to develop a hierarchy of religions. Thus, some European societies arrange religious groups into lists, grouped into several different categories. Such a grouping might look like the following :

TABLE 3

HIERARCHY OF RELIGIOUS GROUPS
USED IN SOME SOCIETIES

OFFICIALLY SANCTIONED CHURCHES, ALLOWED FULL ACCESS AND ALL PRIVILEGES
OTHER ACCEPTABLE CHURCHES, ALLOWED LIMITED PRIVILEGES
ALL OTHER RELIGIOUS GROUPS, WITH FEW OR NO PRIVILEGES
ILLEGAL GROUPS, PUNISHED FOR BEING PRESENT AND ACTIVE

Those groups in box 1 can have access to schools for religious education, to the military with chaplins, and they are often granted special tax status and state funding, and may even have special legislation (a "concordat") granting them privileged status in the society. Groups in box two may be religious

organizations that have a special status in other societies of importance to the host society, or they may have historical status within the society. For instance, some European countries will grant a second level status to major religious organization that operate as major denominations within the U.S., or they may allow the Muslim community special privileges, such as the recognition on polygamous marriages. Also, the Jewish faith may be allowed to function with some privileges, especially in the aftermath of WWII and the holocaust.

Those in box 3 have few privileges, and may not be allowed to own property or rent public halls, or proselytize for members. They might be allowed to meet in private homes and possess their religious materials and books, but little else. To violate these regulations may result in fines and even imprisonment. Those groups that fall into group 4 function underground, and are always subject to harassment by the authorities and others involved in self-help but officially sanctioned social control. Sometimes those in these lower categories may be told that they have to exist for a certain length of time and achieve a certain number of participants before being considered for a higher status and more privileges (Witham, 1997).

Such hierarchies of religious groups serve as guidelines for social control agents, either public or private, with more severe sanctions applying the lower groups in the particular hierarchy functioning in a given society. Thus, pluralism can be structured in a way that allows considerable control over selected segments of that pluralism. This is a common pattern in Europe for both Western and former communist countries, which means that religious pluralism does not directly equate to religious freedom in every society. Other historical or political forces may interfere with the working out of the "natural" impact of pluralism.

4. Status and intimacy variables

One can also organize legal systems according to other variables, including who or what classes of people use the legal system for their private goals. Donald Black's work in the sociology of law reveals that a number of structural variables impact access to law and the legal system, including, for instance, status and "intimacy" (Black, 1976).

The higher the status of an individual or a group, the more prone they are to make use of the legal system, and the more prone they usually are to be able to work their will when using the legal system. "Intimacy" refers to personal closeness to participants in the legal institution, a variable obviously often related to that of status. That is, the higher the social and economic

status, the more prone an individual is to having personal relationships with members of the legal system, which in turn may cause that system to be more responsive to the needs of such socially located people.

Plainly the variables of status and intimacy can work at cross purposes with the key variable of autonomy, even *overcoming* apparent autonomy on occasion. This might occur in regimes in which powerful political or religious figures can effectively dictate outcomes of legal actions, or even instigate legal actions themselves, either privately or as an agent of a governmental agency, against unpopular individuals or groups. We would hypothesize that autonomy of a legal system would be most easily overcome when : (1) those in high positions in the judiciary, (2) share cultural values with those in high status positions, and (3) with whom they are personally intimate.

Obviously, we are not suggesting that autonomy is always overcome in such circumstances. Indeed, another related hypothesis to show how these variable might relate in a manner demonstrating a high degree of autonomy would be the following: If (1) a legal system is truly autonomous, then (2) that autonomy will negatively impact the intimacy shared by members of that system and other high status persons in other institutional structures; also, (3) the status of those in the legal system will be high relative to leaders of other institutional structures.

These and other possible hypotheses can be related, of course, to the issue of social control of minority faiths. A truly autonomous judiciary can defend itself against the actions and desires of high status individuals who might want to exert control over a given religious group. This would be easier, of course, in a context that (1) included constitutional guarantees that had been deferred to historically, and (2) which enjoyed public support, both indications of a favorable cultural climate in which to defend religious freedom.

But, be reminded that the discussion of autonomy included problems that can arise if those in decision making positions within the legal system (usually judges, but also sometimes, especially in the U.S., juries) are biased about a given religious group, or do not share values concerning religious freedom (or they do not accept a claim that a party is in fact a "real religion")[12].

5. Evidentiary issues and social control of minority religions

Several key sociological variables of importance to understanding how legal systems operate have been described, especially as they relate to the use of the legal system as a social control mechanism for use with religious

groups and practices perceived as deviant by members of the greater society[13]. Illustrations of the operation of those variables have been offered, as they might apply to newer and smaller religions. Now I will discuss some selected types of cases, using the theorizing offered above as a guide.

Evidentiary issues, that is, rules and criteria for acceptance of evidence will be a special focus of this section. My contention is that the legal system will, in cases involving unpopular religious groups and behaviors, often show the flexibility to function in a normative way, regardless of the actual rules that might operate concerning what is and is not acceptable evidence[14].

Put another way, it seems clear that in any legal action the production of evidence is crucial: without evidence there is no basis for the case. And, it is just as clear that the *production of evidence is a social process*, subject to the operation of sociological variables such as those discussed above (Cooney, 1994; Richardson and Ginsburg, 1995,1996). So, the sociologist should be interested in what causes evidence to be produced and the concomitant process of the acceptance of the evidence which is produced for a given legal action.

My theses can be stated simply, using the variables discussed above :

5a) First, given the *pervasiveness* of legal systems in the modern world, coupled with the growth of *pluralism* in modern societies, many legal actions will arise that involve newer and smaller religious groups. The amount may vary by society, but in all modern societies the legal system will be involved in exerting control over such religious groups and practices.

5b) Problems concerning quality of evidence are more likely to arise in cases involving controversial groups and their alleged practices, even in societies with relatively *autonomous* legal systems. This occurs because of *cultural values* that involve biases and stereotypes about such groups and practices.

5c) Courts seem more prone to allow problematic forms of evidence to be *produced and accepted* in cases involving marginal groups and practices so that the normative role of the judicial system can be exercised. This occurs because decision makers in legal systems are *acting out* their prejudices and misinformation about such groups. Thus, decisions are sometimes made by judges to admit evidence that would not be admitted under other, more normal, circumstances. Also jurors are prone to accept questionable evidence when it supports notions that a strange group has done something, no matter how bizarre the allegations.

5d) *Status and prestige* variables play a major role in decisions made within legal systems about newer faiths. Such groups nearly always have

lower status and prestige than the group's adversaries involved in the legal system, including the parties bringing the action against the group, or defending against an action brought by a smaller or newer group or its representatives. Thus, newer religious groups are disadvantaged from the outset in such processes.

5e) The variable of *intimacy* also plays a crucial role in efforts at social control via legal systems. For key decision makers in the legal system, new and minority faiths are often unknown to them. Worse yet, the decision makers may share quite negative views of such groups and their practices that have become *hegemonic* through negative media coverage and the actions of societal opinion leaders. Thus, the newer groups are not only *strangers*, they are *feared strangers*, requiring *normative intervention* by those decision makers. *Message must be sent* that the alleged behaviors and beliefs of such groups are not acceptable in normal society.

To illustrate these theoretically based assertions, I will first discuss so-called "cult/brainwashing" cases that have occurred mostly in America, but also elsewhere, including in Europe (Richardson, 1996).

5.1 "Cult/Brainwashing" Cases

In the U.S. in recent years we have seen a number of cases involving new religions which are accused of "brainwashing" participants, and then using so-called "mind control" to retain members (Anthony, 1990; Anthony and Robbins, 1992; Richardson, 1991, 1993b).

This simplistic "brainwashing" theory of why people participate in such groups seems posited on the notion that no right thinking person would ever participate in such odd groups unless they were tricked or under some sort of mental control. This so-called theory is used to explain the fact that most members of such groups in the U.S. in recent decades have been members of the middle or upper class groups who were well on their way to obtaining the education necessary to achieving a promising career (or so their parents thought), when they suddenly joined a new and strange religious group.

Why some young people in America would give up such promising futures was beyond the ability of some parents and others to grasp or accept. The implications of modern rampant pluralism were lost on many, and instead, it seemed that the youth were tossing aside promising careers to follow a foreign guru and engage in weird practices. This development made no sense to many parents and other observers, including particularly some members of the press corps who like to run human interest stories. Thus,

many observers think that something must have happened beyond the control of the young person, and it must have been strong enough to overcome years of excellent socialization and training that parents had invested in their young. The threat that apparently overcame the young person was posited as being very powerful indeed, requiring powerful responses from society's institutional structures and political leaders, with whom the relatively high status parents might have been somewhat intimate.

One favorite way to respond to threats in America, of course, is with legal action. Thus, we have seen a number of actions in civil court where former members sue the former group of membership for large sums of money using a "brainwashing" based theory of their case. They may claim false imprisonment, fraud, or intentional infliction of emotional distress, but much of the discussion in court concerns notions of brainwashing and mind control. A sizeable number of such cases have been brought in recent years, often by people who have been forcibly "deprogrammed." Several such cases have resulted in multi-million dollar jury awards, mostly from punitive damages awarded to punish what was perceived as especially egregious behavior and to make an example of the offender.

These brainwashing based claims have also arisen in some family court matters, to justify actions involving custody of children of group members[15]. Brainwashing claims have also been made as well in a number of criminal cases, where people have used such claims to help establish a kind of "diminished capacity" defense to criminal charges, or where the claims have been raised as a defense in kidnapping or assault cases brought against "deprogrammers." The latter cases involve deprogrammers who have taken adult members of new religious groups out of the groups by force, and then used rigorous methods with the "deprogramee" in an effort to get them to recant their beliefs and leave the group.

As indicated, the use of brainwashing based claims in civil actions has been rather successful, as has the use of such claims as part of the defense in cases were deprogrammers were being charged with kidnapping or assault. The use of such claims in diminished capacity defenses has not worked well, however. Family court uses of brainwashing based claims flourished for a while, as a basis for conservatorship hearings brought by parents of adult children. However, adverse appeal court rulings have limited such uses in recent times (LeMoult, 1983; Bromley, 1983).

In the kidnapping type cases such claims have been a part of what in America is called the "necessity" or "choice of evils" defense. The idea is a simple one, but it is fraught with the possibility of abuse. Supposedly, the person must have been taken from the group because it was necessary to do

so or she/he would have suffered a greater harm than that of being kidnapped[16].

Such use of a necessity or choice of evils defense is not routinely allowed in American courts. But it can be raised and allowed by the court where deemed relevant. When dealing with a strange, even hated and feared new religious group, it is easy to understand a judge allowing such testimony. And this has happened with direct rulings to allow such discussions in court, or more indirectly with considerable leeway being allowed in discussions of motives for commission of the alleged crime of kidnapping or assault (Bromley and Robbins, 1993; Richardson, 1995a).

In civil actions against a group of former membership brainwashing based testimony has often also been allowed, under the rationale that the plaintiff must be allowed to explain what it is about the group that was so bad as to constitute false imprisonment, fraud, of intentional infliction of emotional distress.

Such decisions in criminal and civil matters have had the effect of allowing very questionable testimony from a few self-designated experts who are willing to say (for a fee, of course) that the particular group in question does brainwash its members, and that life in the group is heinous and revolting. So bad is the group that, according to some of these self-appointed experts, just being a member caused mental problems that require treatment and warrant damages (Richardson, 1992, 1993a) and that getting people out should be done at all costs, even if the person does not want to leave and has to be kidnapped[17].

These experts ignore the volitional nature of virtually all decisions to participate, and they ignore the very high attrition rates that such groups suffer, as most participants decide, after a short time in the group, to move on to something else. Such "experts" also ignore a huge scholarly literature that demonstrates that participation in such groups usually has an ameliorative function, and that many people have a quite positive experience in such groups (Kilbourne and Richardson, 1984; Richardson, 1993b).

Thus, in America, even though the Constitution supposedly protects freedom of religion, we may see weeks of testimony about the beliefs and practices of a given religious group placed in the record for the jury's consideration. Testimony that could not be allowed as a clear violation of freedom of religion guarantees is thus "back-doored" into the case under the guise of explaining why remaining in the group would have been a greater evil, or how the person was tricked into participating.

The very fact that the judge allows such testimony at all would not be lost of jurors, of course, who bring their own biases and prejudices to the court,

given impetus by a lack of personal intimate knowledge about the new group. The political and normative nature of the jury in America has been much discussed, and cases involving new and controversial religious groups serve to illustrate well that position. Especially when so-called scientific experts are allowed to testify in ways that reinforce the normal biases and misinformation found in the general public members of the jury pool, there are special problems (see DeWitt, Richardson, and Warner, 1996; Pfeifer, 1995). The courts need to be especially mindful of such possible problems, and pay special attention to decisions to allow what would otherwise be questionable testimony. It is fashionable to be against the so-called "cult menace" in America, but it may not be good legal and judicial practice to allow that fashion to govern decisions about the type of evidence allowed in court[18].

5.2. *Other Brief Examples*

5.2.1 The Dingo Case in Australia

In Australia there have been some major cases involving minority religions where it seems obvious in hindsight that the normal rules of decision making about crucial evidence were not followed (Richardson, 1995b). One involves the famous case of Lindy Chamberlin, whose baby was apparently taken and killed by a dingo at Uluru (Ayers Rock) in Central Australia. The case, which was made into a major motion picture (Cry in the Dark, starring Merril Streep) seemed open-and-shut until it was revealed in the media that Mrs. Chamberlin and her husband were Seventh Day Adventists, after which there was a huge outcry that eventually resulted in Mrs. Chamberlin being sentenced to prison for murdering her baby, supposedly in some bizarre Adventist ritual.

Crucial evidence was withheld in the case (i.e. not produced), and some of the evidence that was offered was plainly questionable. Mrs Chamberlin served five years in prison before a public outcry led to the reopening of the case and the granting of a pardon to her. Meanwhile, her marriage had been destroyed, and her life was a shambles.

Observers have suggested that it was Mrs. Chamberlin's status as a member of a relatively unknown minority religion that was the key variable in what happened with this case (Richardson, 1995b). It is difficult to refute this conclusion based on reviewing the record. The Royal Commission that eventually reviewed the case found the evidence on which her conviction was based to be sadly wanting. Spray paint underneath the dash of the family car was testified to as blood from the "arterial spray" of the baby, as its throat

was cut in the car. Blood samples were tested with plainly improper methods and conclusions from the tests were presented in ways that fitted apparent beliefs of the one doing the tests. Tears on clothing was testified to by a famous visiting forensic scientist from England as definitely not being made by a dingo's teeth, but more likely being made by scissors. The findings of the commission raise a profound question. If the evidence was so weak, why was this not discovered during the trial? Apparently, the courts were overwhelmed by bias and misinformation, and normative based actions were taken that had little to do with proper evidence or justice.

5.2.2. The Hilton Bombing Case from Australia

In 1981 a bomb went off outside the Hilton Hotel in Sydney, killing two workers and injuring several others. It was thought that the bomb might have been directly targeted at a specific visiting dignitary, the Prime Minister of India, who was attending a political conference there.

Almost immediately the Ananda Marga group, a radical Hindu sect, was discussed in the press as possibly being linked to the bombing. This group was alleged to have been associated with some violent political actions overseas, and it had been the focus of an investigation in Australia by federal authorities for several months at the time of the bombing. Some of its members in Sydney were arrested on other charges, but almost immediately the press was full of stories that those arrested were implicated in the Hilton bombing, a idea derived directly from statements by police authorities to journalists.

A police informer who had allegedly infiltrated the group told wild tales of the planning of the bombing and other matters. Other police informants came forward later with tales of what they had heard the defendants say while imprisoned with them after the bombing. The testimony of all police informants in this case was always obviously problematic, simply because the informants would claim things that were physically impossible (some were not even in the same prison as the defendants), and the testimony was often internally illogical and inconsistent.

Problems with this evidence were ignored by the media, and apparently forgotten by the jurors. The media wrote articles as if convictions were a forgone conclusion, ignoring evidentiary problems and virtually everyone, including most media representatives, seemed to think that they "had their men."

One major problem arose because the defendants could not examine some of the key evidence (the prosecutor refused to produce it for their use),

evidence that was quite exculpatory when finally reviewed by a special commission. The battle over access to certain types of evidence was carried all the way to the High Court, and lost on a split vote against the defendant's right of access.

Later, the defendants were released, and even paid a relatively meager amount of compensation for their trouble, after serving seven years in prison. One of them was even put through another trial for the same offense (he was found not guilty), an action that some commentators suggested was an effort to get even by some of those embarrassed in the first case (see Richardson, 1995b, for more details).

The lessons of this case seem obvious in hindsight. The police governmental agencies, and the judiciary can sometimes get so caught up in mass hysteria that good judgment is clouded, and bad, even tragic, decisions are made. Plainly, justice was not served by the Hilton bombing case, and we still do not know why it happened or who did it[19]. The defendants appeared to be convenient scapegoats, and their scape-goating was nearly completely successful.

The fact of the defendant's participation in a minority religious sect played a major role in how they were treated by governmental agencies and the legal system, as well as the media. They were politically weak and thus were vulnerable to accusations made about their connection with the bombing. Once the accusations were made, a tidal wave of prejudice washed away all hope that the defendants might receive a fair trial.

5.2.3. The *Yakunin versus Dvorkin* Case in Russia

In 1997 a major case involving minority religious groups developed in Russia. All the details cannot be given here (see Richardson and Shterin, 1998), but suffice it to say that the case involved minority religious groups and sympathizers on one side, as plaintiffs, and a functionary of the Russian Orthodox Church (ROC) as the defendant in a libel action. The case resulted from the publication of some extremely harsh claims about minority faiths by Alexander Dvorkin, who was in charge of an educational arm of the ROC, which was actually the major Anti-Cult Movement organization in Russia at the time (see Shterin and Richardson, 2000).

The case lasted five weeks, and involved many types of testimony (the writer was a witness for the plaintiffs). Many parents of participants in new and controversial religious groups were allowed to testify, to the point of obvious redundancy. Also, the ROC brought in representatives of the Western Anti-Cult Movement (see Shupe and Bromley, 1980, 1994), who were

allowed to make all sorts of unsupported claims about consequences of participation in the new religions. Theological statements and ideological claims were allowed, as well as blatant nationalistic arguments.

On the other hand, the court chose to completely ignore evidence based on the vast literature concerning new religions that has developed in the West, in America and some European countries. This writer and others who had been involved in such social scientific research for decades were allowed to testify, but the testimony was ignored. The final judgment of over 100 pages was over 40% almost direct quotes taken from Western anti-cult sources, and there was no mention of the hours of testimony derived from many scientific studies done by social scientists.

What was striking, aside from the stark differences in how the courts in Russia operate, was the apparent lack of real autonomy of the court system, which seemed to be responsive to the ROC and the media, and very susceptible to political pressures and to the ACM-based nationalistic arguments. The ROC was well represented throughout the trial, but particularly at the beginning and end, when a number of ROC priests in full garb were present as obsevers in the courtroom. On the last day of the trial, after closing arguments, an Archbishop of the ROC stood and ask permission to bless the court. The judge allowed this, whereupon the Archbishop offered his blessing to the defendant, and thanked the Court for the decision it was about to render. Immediately afterward the judge ruled in favor of the defendant. A clearer illustration of how another institutional structure can influence a legal system could not be hoped for. The case was appealed by the plaintiffs, but unsuccessfully, adding to the conclusion that the entire legal system was acting in a normative role, subservient to political considerations.

5.2.4 Hungary and the Hare Krishna

A situation developed in recent years in Hungary (described in Kamaras, 1997 and Richardson, 1997) that also illustrates some of the variables which we have been discussing, even if in a somewhat different manner. Similarly to what happened in Russia and other former communist countries, a liberal law granting freedom of religion was passed in 1989. This law, which recognized the growing religious pluralism in Hungary, made it easier for smaller and newer groups to register and function within Hungary, with officially registered groups even having a claim on tax revenues proportionate to their size.

Almost immediately there was a reaction to this liberal law, and in 1991 a serious anti-cult campaign similar to what has happened in the West (Shupe

and Bromley, 1980, 1994) as well as more recently in former communist countries was launched (Shterin and Richardson, 1998), led by a prominent Reformed Church minister, Pastor Gaza Nemeth. Nemeth wrote a series of newspaper articles accusing the newer groups of "brainwashing" youth, of breaking up families, undercutting Hungarian consciousness among the youth, and other detrimental actions. Pastor Nemeth then established a Western style anti-cult organization and published a pamphlet making many unfounded accusations against the newer groups.

In 1992 a proposal was made by a committee in Parliament to refuse financial support four controversial smaller religions, referred to in the proposed legislation as "destructive cults." Included in this designation were the Unification Church, Scientology, Jehovah's Witnesses, and the Hare Krishna. Thus began a somewhat official effort at exerting social control over some minority faiths operating in Hungary, an obvious reaction to the pluralism that had developed (or been recognized) within the society. That effort did not bear the same fruit as a similar effort in Russia, however, because of different circumstances, including with some key variables discussed herein (see Richardson and Shterin, 1998). The legal system played a key role in this different outcome.

The Hare Krishna sued Pastor Nemeth for defamation, based on his claims made about them in his stories and in the pamphlet. Surprisingly they won at the trial level, as well as later on appeal to a higher court. The Hare Krishna eventually were accepted as a group to which financial resources could flow from the state (see Richardson, 1997).These developments demand some explanation, given what has typically happened to minority religious groups in legal actions (recall the outcome in Russia just discussed, of a similar legal action).

In post-communist Hungary the judicial system has demonstrated a remarkable independence, as discussed by Shepple (1996). The reach of the judicial system is quite pervasive and powerful, particularly for the relatively new Constitutional Court. This development has occurred in part because of the lack of dominance of the Catholic Church, which was seen by many as seriously compromised by is collaboration with the communists over many years. Also, the Catholic Church was not the monolithic presence in Hungary that the ROC occupied in Russia, since there was a significant Protestant minority group in Hungary.

Therefore, the kind of successful alliance formed in Russia between the Russian Orthodox Church and conservative political forces was not possible in Hungary. Indeed, more liberal political forces in Hungary were apparently able to use the Hare Krishna as a vehicle to fight off efforts by the Catholic

Church and more conservative political forces to achieve a more dominant position in the new post-communist society. The Hare Krishna, showing considerable sophistication in how to operate within the legal and political environment of Hungary at that time, promoted more personalistic ties between themselves and prominent politicians, and sought their assistance in the effort to defend themselves.

Thus, the Hare Krishna developed some important relatively high status allies in the Hungarian Parliament and in the general public, demonstrating the role of status and intimacy variables within the legal and political system in Hungary. More liberal-minded Hungarian leaders sought ways to stave off the same kind of conservative alliance that had worked so effectively in Russia and some other former communist countries, and the battle over the Hare Krishna became a part of the effort. And, operating above all the fray of political infighting and posturing, the Hungary judicial system was able to function in ways unseen, for example, in Russia (see Richardson and Shterin, 1998). The victory of the Hare Krishna at the trial level, a decision upheld on appeal, clearly shows that forces were at work in Hungary that were unsuccessful in some other post-communist countries. Whether this situation changes over time remains to be seen, but at least this episode shows the different ways variables such as pervasiveness and autonomy of the legal system can operate within in a different social context.

CONCLUSIONS

This chapter examined several key variables that help us understand how legal systems operate in their role as social control agents acting in a normative function. The focus was on the exercise of that role with reference to religious groups and practices, especially those of smaller, and newer faiths, which are often unpopular and controversial within their host societies.

The variables examined included : (1) pervasiveness of legal systems, by which is meant how much the lives of citizens are impacted by machinations of the legal systems; (2) autonomy of legal systems, which refers to whether legal systems are influenced or even perhaps overwhelmed by other institutional structures, such as political, religious, or military ones; (3) status and intimacy relationships between those using or being forced to use the legal system as it operates in its social control and normative mode. Also discussed at some length was religious pluralism, a important structural and historical variable if one is to understand how the legal system relates to things religious in a given society.

Several specific cases and types of cases that have developed around the

world were examined to show the operation of some of the variables that had been discussed. These included so-called "brainwashing" cases, particularly from the U.S., two very problematic cases involving minority faiths in Australia, a recent major case involving religious freedom issues in Russia, and an important case from Hungary that occurred in the post-communist environment.

All these cases demonstrate that: (1) legal systems do operate as normative institutions, and as agents of social control; and (2) that operation is understandable from the perspective of sociology which makes use of structural and historical variables such as those described. Thus, it is clear that the presence of *pluralism* in modern societies can set up *conflict and competition* between religious groups and between religious groups and institutions and other forces in society. The conflicts that develop can often end up being *legal conflicts*, handled within the legal systems that are *pervasive* in many modern societies. Those legal conflicts are affected by the operation of variables such as the relative degree of *autonomy* afforded a given legal system, and the *status relationships* and the *degree of intimacy* between parties. And, it is also obvious that, as the sociological variables operate, religious freedom for a society's citizens can be greatly affected, sometimes (often?) in a negative direction if they are participants in a minority faith that is relatively unknown and unpopular.

NOTES

1. The terms "sects" and "cults" obviously have a pejorative meaning attached to them, with the former being a traditionally negatively connoted term within European settings, while the latter is a negative term for unpopular groups within American culture. See Richardson (1993a) and Dillon and Richardson (1994) for discussion of the term "cult" that have generalizability to the term "sect" within Europe.

2. The exact wording of the portion of the First Amendment dealing with religion is: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;..." As has been noted by many (see Berger, 1967, for instance), this particular clause (or two clauses, actually) derived from the historical fact of pluralism in the fledgling America. People of many different religious persuasions had come to America, many fleeing religious persecution in their homelands. No religious group had the strength of numbers to dominate the new nation, so

a compromise was struck in an effort to make sure that such domination could not occur. The compromise was a bit of, "If my group cannot be the chosen church, then neither can any other!" Thus began the great "lively experiment" (to use Sydney Mead's famous term) of religious freedom in the new nation of America.

3. Another consideration is the fact that most Western European countries have a more developed "welfare state" that both supports citizens throughout their lives and encroaches into those lives to more depth than in many other societies. This encroachment also involves things religious, with Western European governments assuming more responsibility to manage the religious lives of their citizens than is the case in the U.S. for instance. But, even in the U.S. the growth of the liberal and intrusive state in recent decades has contributed to a greater pervasiveness of the legal system in people's everyday lives, including their religion (Robbins, 1988: 164-168).

4. There are those who would say that the U.S. legal system is dominated by business or economic interests, and that it works to protect those interests, even in the face of Congressional action or Executive authority. This is an intriguing argument, but not one that will be pursued here. It is also worth noting that the United States has two parallel legal systems, the federal one, and the one made up of state court systems. The former has judges who are appointed for life, whereas the latter is predominantly made up of judges who must stand for election every few years. It is obvious that judges who do not stand for election periodically, but who have life-time appointments, can and do exert more autonomy than those who must stand for election. However, it is also important to understand that a case can be in effect transferred to the federal system for a number of reasons, including that one's rights under the federal constitutional have been violated. Also, many states have constitutions modeled after the Federal Constitution, which means that a certain amount of autonomy is built into most state legal systems in the U.S. Thus, it would be a mistake to say that the two systems are completely independent and that state courts have little autonomy.

5. See Richardson (1997) for a comparison of Hungary and Poland that contains a discussion of Schepple's ideas.

6. Examples of this include the Black Codes established in America after the Civil War to maintain Blacks in a lower position of little power, and the development of so-called "Jim Crow" laws that legalized racial separation within America for a long period of time (Woodward, 1974). South Africa's apartheid regime, which borrowed some ideas from the U.S., is also an example of legal system enforcing status distinctions. Nazi Germany also illustrates this process, with its rapid delegalizing of Jews in the 1930s, moving toward the "ultimate solution" of the holocaust. Scholarship has revealed that these three examples are not independent, and that they share some

common elements (Hilberg, 1985).

7. That logic is simply that religious freedom for minority religions requires an autonomous judiciary in order to enforce legal protections for such groups, which are usually unpopular and controversial among the general population and political leaders. If such groups are to be protected within a society, then those doing the protecting must themselves have some degree of protection afforded them in terms of autonomy from external influences.

8. Of course, leaders and citizens in homogeneous societies might make the claim that there was total religious freedom present in their society, since religious affiliation and participation are not problematic. But, the sociologist would perceive this as a situation akin to the statement once attributed to Henry Ford, who set up the world's first assembly-line production of automobiles. He was quoted as saying, "They can have any color of car they want, as long as it is black." The real test of religious freedom comes when those of different faiths attempt to come into a relatively homogeneous society. Experiments of this nature are occurring all over the Western world today, as people of other faiths such as Islam, Hinduism, and Buddhism attempt to move into societies in larger and larger numbers. Also, the growth of so-called New Religions of various kinds within relatively homogeneous societies is another test of whether religious freedom truly exists in those societies.

9. The phrase is taken from McFarland's (1967) fine study of the development of new religions in Japan after WWII.

10. This assertion is made in part because of the greater ease of travel, allowing people to move around the world much easier than was the case under communism. However, the primary impetus for continuing pluralism in these societies has to do with means of communication. Globalization of communication with satellites, cable television, fax machines, electronic mail, and the Internet make it virtually impossible to stop the flow of ideas around the globe. Thus, cultural pluralism will grow and a part of that growth involves religions, many of which are extremely sophisticated at using modern means of communication to spread their message.

11. See Shterin and Richardson (1998), Shterin and Richardson, (2000), Richardson and Shterin (1998) on the machinations in Russia, and see Richardson (1997) for a discussion of Poland, as well as other chapters in Borowik and Babinski (1997) and Borowik and Jablonski (1995) for discussions of developments in formerly communist countries.

12. See DeWitt, Richardson, and Warner (1996) and Pfeifer (1995) for experimental studies showing the impact of bias and misinformation on the actions of potential jurors in "cult cases," and see Richardson (1991), Anthony (1990), and Anthony and Robbins (1992) for discussion of some of these major cases involving "brainwashing" claims against so-called "cults."

13. Other variables could be discussed as well, such the differences between the adversarial legal

system prevalent in the U.S. and the inquisitional legal systems found in most European countries. However, that discussion will be held for another time, although there are obvious ramifications to it for how minority faiths are treated within the two types of legal systems. One major effect to take into account would be the importance to unpopular minority faiths of having an independent advocate for their position such as could be the case within an adversarial system of justice. The interaction of some of the variables discussed in this chapter, such as autonomy of the legal system, with the type of legal system (adversarial versus inquisitional) would yield some important insights.

14. I am not, of course, suggesting that minority faiths always lose legal actions in which they are involved. That is not the case, as the history of religious freedom cases in the U.S. demonstrates. However, when minority faiths do win in the legal arena, such cases require some explanation, and we would suggest that the explanation would entail attention to the kinds of variables discussed herein, and in Richardson and Ginsburg (1995, 1996). See Richardson (1998) for a discussion of situations involving "new religions" and the courts, including some in which the new religions have prevailed.

15. See Richardson (1999) for a discussion of the evolution of social control efforts from those based on brainwashing claims to efforts to use claims of child abuse, including sexual abuse, as a basis for exerting control over newer and more exotic faiths. Note that rules of evidence are usually not as rigorously applied in family court as they are in regular court proceedings.

16. The analogy often given in American law schools is that it is better to break into a house if by so doing one can put out a fire that would consume the house if left unattended. Breaking into the house would, of course, be a technical violation of the law, but you have done a greater good by doing so and thus saving the house from destruction. Thus is law breaking excused under certain circumstances.

17. A related rationale for allowing brainwashing based testimony is that of "consumer protection," a major movement of the past several decades. Efforts have been made to define religious participation as just another consumer product to be used by people, and if the product turns out to be defined as bad, then the consumer can collect damages. In brainwashing cases, the logic is that a bad religious product was accepted because of the effects of brainwashing and mind control. See Richardson (1986) for a discussion of such legislation in one state.

18. See Ginsburg and Richardson (1998) for a systematic critique of "brainwashing" based testimony in light of a major U.S. Supreme court case laying out guidelines whereby all allegedly scientific evidence is to be assessed. This critique concludes that none of the criteria of the new standard are met with "brainwashing" evidence.

19. A theory that has gained prominence in later years is that the bomb was actually planted by

some rogue police, who were trying to gain political favor and a larger budget for certain police operations. The fact that it went off, apparently accidently, and killed some people made it imperative to find a scapegoat, and this was done quickly, using the handy target of a weak but controversial religious group (Richardson, 1995b)

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LA LAÏCITÉ FRANÇAISE FACE AU PLURALISME ET À SES MUTATIONS

Jean Baubérot

Dans le cadre de cet exposé, il est impossible de retracer, de façon détaillée, l'ensemble des problèmes liés à la laïcité et au pluralisme en France. Mon but consiste plutôt à donner un schéma illustré de quelques exemples. Beaucoup d'autres pourraient être donnés à l'appui de la démonstration. L'essentiel est que soit dessinée, à gros traits, une logique permettant d'ordonnancer des événements qui, en apparence, partent dans tous les sens.

1. Principes et modèles

Commençons par un constat : la France est souvent magnifiée comme le pays des « droits de l'homme », la nation dont les représentants ont rédigé la célèbre déclaration de 1789. En même temps, dans la réalité concrète, elle ne se montre pas toujours à la hauteur de sa réputation. Cela a été vrai sous la IIIe République (J.-P. Machelon, 1976) et de nouveau constaté ces dernières années à propos de groupes religieux minoritaires (M. Introvigne, J. Gordon Melton eds., 1996). Si l'on peut dire, avec Émile Durkheim (1912), qu'une société « n'est pas seulement constituée par la masse des individus qui la compose, par le sol qu'ils occupent, par les mouvements qu'ils accomplissent », mais aussi par « l'idéal que la société se fait d'elle-même » et que les conflits, quand ils éclatent, ont lieu « non entre l'idéal et la réalité, mais entre idéaux différents », force est de constater la récurrence des conflits, mettant en jeu un idéal symbolique, en France du XVIe au XXe siècle.

Il n'est pas facile de démêler de tels conflits. Dans le schéma proposé ici, il est possible d'opérer une certaine clarification en distinguant principes et modèles.

Au niveau des principes, il est exact que la France a apporté une contribution intéressante, importante à l'émergence des droits de l'homme comme principes à visée universelle. Certes, il ne faudrait pas croire que

cette contribution a été exclusive d'autres apports. La réflexion sur la tolérance de John Locke a constitué un jalon essentiel. De façon plus générale, si l'idéal de la dignité humaine se retrouve dans beaucoup de civilisations, de religions, de philosophies, les principes des droits de l'homme ont commencé à émerger au XVIIe siècle, en Angleterre, avec les deux Révolutions anglaises et, en Amérique anglaise, avec notamment les théories du pasteur baptiste Roger Williams, qui ont servi de base à la fondation du Rhodes Island. Ensuite, lors de l'Indépendance des États-Unis, des déclarations des droits ont été élaborées dans plusieurs États; elles ont précédé de quelques années la déclaration française et l'ont influencée. Mais la déclaration française a aussi ses sources propres et, étant donné l'influence de la France à cette époque, elle a constitué un élément essentiel pour l'universalisation de ces droits. Les Américains parlaient des droits des habitants du Massachusetts, de Pennsylvanie ou du Maryland. Les Français ont qualifié leur déclaration de « droits de l'homme et du citoyen » (M. Gauchet, 1989).

Un modèle, normalement, est en rapport avec des principes. Il est constitué par la récurrence d'éléments stables que l'on trouve dans différentes conjonctures d'une réalité géo-historique donnée. On peut dire qu'un modèle interprète, concrétise les principes auxquels il se réfère. Cette interprétation et concrétisation crée nécessairement un débat où le modèle se trouvera contesté par l'insistance mise sur les écarts qui existent forcément entre les principes et un modèle donné. D'ailleurs, il existe toujours différents modèles possibles en référence aux mêmes principes. Le modèle français est pétri d'histoire. C'est pourquoi je vais le construire à l'aide de trois «flashes» historiques.

2. Édit de Nantes et révocation : les zigzags de la liberté religieuse

Le premier « flash » concerne l'Édit de Nantes dont on a commémoré, en France, en 1998, le quatrième centenaire. Promulgué en 1598, il a mis fin à près de quarante ans de guerre de religions, marquées notamment par le célèbre massacre de la Saint Barthélémy (1572). Le Royaume de France était un royaume catholique, mais la Réforme s'était introduite et une minorité protestante réformée s'était constituée. Les guerres de religions entre catholiques et protestants ont induit des réflexions nouvelles chez des hommes politiques et des juristes. On peut citer les noms de Michel de L'Hospital et de Jean Bodin. Ils ont, si l'on résume, énoncé le principe de la dissociation entre l'appartenance nationale - la citoyenneté pour employer un terme anachronique - et l'appartenance religieuse. On pouvait

être Français en étant catholique ou protestant.

Le modèle mis en place par l'Édit de Nantes donne une liberté de conscience pleine et entière aux protestants. Plusieurs dispositions, concernant notamment les écoles, les hôpitaux, l'héritage, etc., donnent des garanties sérieuses pour assurer son respect. Les protestants ont accès à tous les emplois publics, à égalité avec les catholiques. Par contre, la liberté de culte des protestants, même si elle est consistante pour l'époque, reçoit de nettes limitations. Ainsi dans les évêchés ou les lieux de résidence du roi, le culte réformé est interdit. Autrement dit, dans ce modèle, on va de l'individu au collectif. On assure d'abord des droits à l'individu, en tant que tel, et ensuite d'autres droits, à l'individu comme membre d'une communauté. La relation entre ce « d'abord » et cet « ensuite » peut être différente suivant les cas, mais la tendance est que les premiers droits soient souvent plus complets que les seconds (cf. not. O. Christin, 1997).

D'autres modèles d'émergence de la liberté religieuse vont exister. Au XVIIe siècle, en Hollande, en Angleterre il va progressivement se réaliser une liberté de religion pour plusieurs minorités. Mais la tendance consistera à pénaliser socialement ou politiquement les individus appartenant à ces minorités. À ne pas permettre qu'ils exercent certaines charges publiques ou à ne pas leur donner de droits politiques. En Angleterre, l'égalité complète des catholiques et des protestants ne sera réalisée qu'en 1830 (J. Baubérot, 1998).

Naturellement, chaque modèle a ses raisons. Le modèle français va de pair avec un État qui va adopter une logique centralisatrice. En Angleterre, l'individu catholique est suspect d'allégeance à un souverain étranger, le pape, qui a excommunié le souverain. Les deux modèles sont possibles pour développer la liberté religieuse et chacun présente des avantages et des inconvénients. Un problème surgit cependant : alors que dans l'Europe du Nord il se produit un processus progressif de réalisation de la liberté religieuse, la France effectue des zigzags, des virages. L'Édit de Nantes va être révoqué par Louis XIV, en 1685. Il est possible de rendre compte d'une telle succession d'événements par la métaphore de l'élastique : l'Édit de Nantes tire fort dans le sens de la liberté de religion ; la Révocation, non seulement revient en arrière, mais tire fort dans le sens de la persécution religieuse. Au XVIIIe siècle, la persécution des protestants français apparaîtra incongrue en Europe. Il n'est pas étonnant que les philosophes des Lumières, en France, accuseront la religion de « fanatisme » alors que leurs homologues anglais et allemands se borneront à prôner une « religion éclairée».

3. La Révolution et l'impossible liberté religieuse

Second « flash » historique : la Révolution. L'année emblématique de 1789 est celle, nous l'avons déjà vu, de la proclamation des droits de l'homme et du citoyen (26 août 1789). L'article X affirme que « nul ne doit être inquiété pour ses opinions mêmes religieuses pourvu que leur manifestation ne trouble pas l'ordre public établi par la loi ». Ce fut l'article le plus discuté et même le plus disputé. C'est, d'ailleurs, le seul article de toute la déclaration qui fasse mention de l'ordre public. En effet, la rupture est grande avec le principe de la « France toute catholique » restaurée par Louis XIV. On peut constater qu'une nouvelle fois, on part de l'individu - clairement cette fois « le citoyen » - qui possède une liberté non limitée « d'opinions mêmes religieuses » (le terme d'opinion au XVIIIe siècle équivaut à celui de « conviction » aujourd'hui et il est intéressant de noter que, dans ce modèle, la liberté religieuse est englobée par la liberté de conviction). Par contre, les manifestations collectives de cette liberté sont, elles, soumises à des limites qui ne sont pas clairement définies (les nouvelles lois ne sont pas encore élaborées) et dont les partisans de la liberté religieuse craignaient qu'elles soient importantes, voire arbitraires. On trouve, donc, dans l'article X, à la fois l'affirmation d'un principe et sa formulation qui se rattache à un modèle précis (Cl. Langlois, 1989).

Mais, dans la réalité des faits, on ne s'affranchit pas facilement d'un modèle ancien. Le modèle absolutiste de Louis XIV, qui conjugue l'uniformité religieuse et l'instrumentalisation de la religion par le pouvoir politique, a largement continué à fonctionner, au-delà de l'affirmation des principes des droits de l'homme. D'abord, l'Assemblée Constituante a toujours considéré, du moins implicitement, le catholicisme comme la « religion nationale » et a voulu réformer son organisation pour la rendre compatible avec la Révolution (T. Tackett, 1986) ; ce fut la Constitution civile du clergé (1790) qui n'aboutit qu'à scinder en deux l'Église catholique. Après cet échec, on tenta d'imposer des cultes révolutionnaires (culte de la « déesse Raison », de la « déesse Liberté ») ou le culte de l'Être suprême. Pendant quelques années, violences et accalmies se succèdent. La France moderne accouche dans les douleurs d'un conflit avec la religion catholique. Cela la marque encore profondément aujourd'hui.

4. Compromis concordataire et lutte anticléricale

Le dernier « flash », qui va nous conduire à la situation d'aujourd'hui, se situe au début du XXe siècle. Alors, on vit depuis un siècle sur un compromis imposé par Napoléon Bonaparte. C'est le système Concordat - cultes reconnus (outre le catholicisme, deux cultes protestants : réformé et luthérien, et le judaïsme) - qui tente de concilier le maintien d'acquis révolutionnaires (comme l'antériorité du mariage civil sur le mariage religieux), un certain caractère officiel de la religion et un relatif pluralisme. Les cultes non reconnus sont bien tolérés pendant les périodes calmes et parfois inquiétés dans les moments de crise (notamment dans les années 1850 et 1870). Après la consolidation de la IIIe République, ce compromis ne fonctionne plus. L'affaire Dreyfus, notamment, montre qu'un catholicisme militant, intransigeant tolère mal les minorités juives et protestantes, ainsi que les agnostiques libres-penseurs (P. Birnbaum, 1993). Il existe ce qu'on appelle le « conflit des deux France » qui met aux prises (en schématisant), d'un côté ceux qui veulent que le catholicisme constitue « l'âme » de la France, le cœur de son identité nationale (la basilique du Sacré Cœur, construite sur la butte Montmartre, symbolise cette perspective) et les Républicains qui veulent fonder la France sur les « principes de 1789 » et la démocratie.

Il ne s'agit donc pas d'un conflit entre les « croyants » et les « incroyants », mais, beaucoup plus fondamentalement, de deux conceptions symboliques de la France. Certes, pour les deux camps, tout Français doit pouvoir être citoyen et jouir des droits qui y correspondent (les femmes, cependant, n'ont pas les mêmes droits civils que les hommes et, de 1848 à 1944, le suffrage dit universel sera, en réalité, un suffrage masculin). Le conflit porte sur l'appartenance nationale : que signifie culturellement et symboliquement être citoyen français ? Cela signifie-t-il appartenir à une nation qui est la « fille aînée de l'Église (catholique) » ? Ou appartenir à une « France moderne » issue de la Révolution et de ses idéaux ?

On comprend que le clivage des deux France passe à l'intérieur du catholicisme et oppose des catholiques intransigeants, pour qui les valeurs de 1789 sont destructrices du christianisme tel qu'ils l'entendent, et des catholiques libéraux favorables à une conciliation entre catholicisme et modernité. D'autre part, les minorités religieuses protestantes et juives se situent clairement, en général, du côté de la « France moderne » et de la République (Ph. Nord, 1995). L'impossibilité d'une « religion civile », issue du catholicisme, conduit à la création de la « morale laïque »

républicaine, autonome par rapport aux religions tout en les intégrant dans le patrimoine moral de la France (J. Baubérot, 1997).

Dans leur lutte contre le « danger » catholique, les Républicains, après l'affaire Dreyfus, risquent de devenir aussi intolérants que leurs adversaires. Sous la direction d'Émile Combes (au pouvoir à partir de 1902), ils pourchassent les religieux et religieuses membres de congrégations enseignantes - 30 000 vont être réduits à l'exil - et vont finir par adopter, en juillet 1904, une loi interdisant d'enseigner à tous les congréganistes. Cette attitude n'était pas sans raisons. Les Républicains accusaient les moines de faire partie d'un système que nous qualifierions aujourd'hui de « totalitaire » : enfermement dans un couvent, vœux perpétuels de pauvreté (ce qui permettait, disait-on, une richesse indue des communautés monastiques), d'obéissance (ce qui consistait à renoncer à sa liberté citoyenne), de chasteté (ce qui induisait des accusations d'activités sexuelles illicites, voire de pédophilie). Au-delà du cas des moines, l'Église catholique elle-même était considérée par les Républicains militants comme incompatible avec la démocratie, ne serait-ce qu'à cause de sa structure hiérarchique (et même monarchique).

Mais alors que dans les deux premiers « flashs » historiques, l'affaire commençait « bien » et, ensuite, tournait « mal », cette fois-ci c'est l'inverse qui va se produire. É. Combes va être obligé de quitter le pouvoir au début de 1905 et la séparation des Églises et de l'État, promulguée en décembre 1905, va tourner le dos au modèle combiste, modèle dont les excès même convaincront beaucoup de Républicains de la nécessité de terminer de façon libérale le conflit des deux France (M. Larkin, 1974).

5. De l'anticléricalisme au pacte laïque

Certes, la séparation va mettre fin à tout caractère officiel de la religion. Hormis certains cas (les aumôneries par exemple), les différents cultes ne pourront plus bénéficier d'argent public. Mais la fin des « cultes reconnus » va aussi signifier la fin de la différence entre « cultes reconnus » et « cultes non reconnus » et l'accès de tous à une pleine liberté. L'article premier de la loi de séparation affirme que « la République assure la liberté de conscience et garantit le libre exercice des cultes ». On va toujours de l'individuel au collectif, mais ce dernier niveau est pris en compte de façon beaucoup plus consistante que dans la formulation de l'article X de la déclaration de 1789. Même les anciens cultes reconnus posséderont une liberté plus grande qu'auparavant. Ainsi, toute assemblée des évêques catholiques était interdite pendant la période

concordataire. Dès 1906, les évêques se réunissent. Grâce à son article IV, la loi de séparation admet les différences d'organisation interne des cultes - c'est-à-dire, pour l'Église catholique, sa structure hiérarchique - sans que cela entraîne des distinctions discriminatoires (J. Boussinescq, 1994). Entre la Révolution et 1905, le républicanisme militant avait tendance à interpréter de manière exclusive (et anticléricale) les principes de 1789. Désormais, ceux-ci doivent, de par la loi, être interprétés de façon inclusive. C'est pour pouvoir qualifier par une expression conceptuelle ce renversement d'attitude que j'ai élaboré la notion de « pacte laïque » (J. Baubérot, 1990 ; 1997).

Le pacte laïque ne se réalise pas du jour au lendemain. Récusant la dénonciation unilatérale d'une convention internationale, le Saint Siège oblige les catholiques français à refuser la loi de séparation. Pour ne pas être amenés à fermer les églises, les Républicains sont obligés de voter une loi nouvelle permettant aux prêtres d'occuper les églises « sans titre juridique » (1907). Les années 1920 permettront un règlement à l'amiable. En 1946, le pacte laïque s'explicite par constitutionalisation de la laïcité à un moment où est au pouvoir un gouvernement tripartite : communiste, socialiste et républicain-populaire. Ce dernier parti, qui est alors le plus important des trois, est un parti démocrate-chrétien. C'est un paradoxe intéressant que la laïcité soit devenue constitutionnelle au moment précis où la démocratie chrétienne est la plus forte de toute l'histoire récente de la France. Cela ne signifie pas la fin de tout conflit. Les disputes vont subsister, notamment au niveau de l'école, donnant lieu a des manifestations importantes, et en sens contraire, en 1984 et 1994. Mais sociologiquement, un pacte ne transforme pas miraculeusement un conflit en consensus. Il ramène seulement un conflit frontal en conflits particuliers, ne menaçant plus l'identité et l'unité nationales.

Il faut enfin remarquer que la Constitution de 1946 comporte également, dans son préambule, une référence explicite à la déclaration des droits de 1789 et un certain nombre d'articles qui l'actualisent. L'ensemble préfigure la déclaration universelle des droits de l'homme adoptée deux ans plus tard, et dont le Français René Cassin a été un des rédacteurs les plus importants.

6. Réussite de la laïcité d'aujourd'hui

Aujourd'hui, dans un pays où les grandes religions présentes au cours des siècles (Judaïsme, catholicisme, protestantisme) ont été persécutées à un moment ou à un autre de l'histoire de France, la liberté religieuse est,

pour l'essentiel, bien assurée en ce qui concerne les religions « historiques ». Certes, les anticléricaux militants relèvent que les jours fériés correspondent souvent aux fêtes catholiques et que l'enterrement de certains anciens Présidents de la République donne lieu à des cérémonies officielles à Notre-Dame de Paris. Les catholiques estiment parfois que la situation financière des Églises catholiques allemandes ou belges, par exemple, est mieux assurée que la leur. Mais cet équilibre des frustrations fait que, le plus souvent, le vivre ensemble est assuré de façon pacifique.

Le modèle consiste toujours à considérer d'abord la liberté religieuse sous l'angle de la liberté de conscience du citoyen. Le mouvement va toujours de l'individuel au collectif. J'ai déjà mentionné que chaque optique présente un intérêt propre. Le modèle français accorde davantage que d'autres aux droits de désengagement (et pas seulement à celui de l'engagement à l'égard de la religion), il garantit mieux les droits de l'incroyance. De mon point de vue, cela est positif pour la liberté religieuse elle-même. Il faut faire attention à certains discours où la religion est tellement considérée comme inhérente à l'être humain que l'athéisme n'a plus guère de possibilité d'exister à égalité. Or la liberté de croire n'existe pas réellement, me semble-t-il, partout où l'on ne trouve pas une liberté égale - et autant garantie - à ne pas croire. S'il existe peu ou prou une incitation sociale à croire, voire même une incitation politique, cela risque de générer de l'hypocrisie et une contrefaçon de religion. Là, peut-être, est l'apport français au principe universel de la liberté de conscience.

Les conflits des « deux France », inaugurés par les guerres de religions de 1562, sont, sans doute, en train de s'achever au moment même où on a célébré le quatrième centenaire de l'Édit de Nantes. Naturellement, longtemps encore, des traces en seront observables, mais, globalement, la laïcité a été, pour l'essentiel, à la fois victorieuse et réconciliatrice. Après la fin de l'affrontement dualiste, peut-elle effectuer une nouvelle étape et devenir le fondement du pluralisme ? Officiellement oui, et cela depuis son établissement. 1905 instaure un pluralisme ouvert où la République laïque garantit le « libre exercice des cultes ». Mais il s'agissait surtout, alors, de pacifier un conflit. C'est pourquoi la construction d'un pluralisme qui ne soit pas dépendant d'un affrontement dualiste structurel peut être considérée comme une entreprise très neuve en France. On comprend alors qu'y parvenir de façon « satisfaisante » demandera du temps. Cela d'autant plus qu'elle s'effectue au moment où le pluralisme s'étend (par l'adjonction de religions présentes depuis peu dans la France de l'hexagone) et, surtout, au moment où il change structurellement de nature en devenant, de façon dominante, un pluralisme éclaté. Il est donc possible de parler de la

recherche implicite d'un nouveau pacte laïque qui intègre ces nouveaux facteurs (J. Baubérot, 1990). Indiquons quelques difficultés actuelles rencontrées par sa construction.

7. Les difficultés actuelles face au pluralisme et à ses mutations

7.1 Les mentalités évoluent davantage par ajout que par un véritable changement. C'est pourquoi, il y a aujourd'hui coexistence dans les mentalités françaises d'un respect indéniable du pluralisme religieux et d'un monolithisme des références religieuses implicites, quelle que soit la position que l'on adopte à leur égard.

La liberté de conscience, la liberté religieuse sont des valeurs consensuelles fortes. Beaucoup d'indices le montrent et notamment l'insistance avec laquelle on prétend que les sectes perçues comme socialement dangereuses ne sont pas des religions (et, donc, n'ont pas à être au bénéfice de la liberté religieuse). Mais, en même temps, cette affirmation est facilitée par le fait que, pour la grande majorité des Français, le catholicisme reste le critère à partir duquel on considère implicitement la légitimité religieuse. Le catholicisme est « la religion », que l'on soit pour ou que l'on soit contre. Les médias parlent des positions de « l'Église » sans prendre la peine d'ajouter « catholique ». Souvent quand il est question des Églises au pluriel, cela signifie seulement que l'on a calqué sur les autres organisations religieuses des caractéristiques de l'Église catholique et que l'on a ainsi habillé de pluralisme un monolithisme profondément ancré. D'où une impossibilité qui reste, pour le moment, structurelle, de considérer la parole catholique officielle - et notamment celle prononcée par le pape - comme une parole parmi d'autres dans un débat pluraliste. Cela provoque souvent des réactions analogues à celles d'un adolescent : après avoir mis le pape en situation de père spirituel, on rejette son propos « autoritaire » avec violence. La théologie catholique qui établit un continuum entre la morale naturelle, la Révélation et la « tradition de l'Église » facilite, de son côté, la perpétuation de cette situation.

7.2 Mais il existe des réalités qu'il est impossible de se masquer et, depuis 20 ans environ, une nouvelle affirmation se fait jour : la France « devient » (sic) un pays pluraliste avec la présence de l'islam. En fait, l'extension du pluralisme à cette religion a commencé, en France métropolitaine, dès les années 1920 avec la construction de la Grande Mosquée de Paris (en partie financée sur fonds publics grâce à une interprétation large de la loi de 1905) (A. Boyer, 1992). Aujourd'hui le

problème est d'une autre nature à cause du développement de l'islam en France et de sa mutation (d'un islam d'hommes seuls à un islam de familles), des problèmes sociaux qui affectent les populations musulmanes et de la montée d'un islamisme politico-religieux. Quelles « exigences » la laïcité française doit avoir à l'égard de l'islam ? Quels « accommodements » sont possibles ? Faut-il passer par une période « gallicane » où l'État contribue à organiser un islam français ? Faut-il investir de l'argent public dans la construction de mosquées ? De la réponse à ces questions et à d'autres similaires dépendra l'avenir commun de l'islam et de la laïcité en France (A. Boyer, 1998).

L'acclimatation réciproque progresse, au milieu des difficultés. Et si une laïcité idéologisée a pu être invoquée pour justifier des passions, la laïcité comme règle juridique a permis de dédramatiser dans une certaine mesure, au bout du compte, les affaires liées au port du foulard dans les salles de classe. Les tribunaux, à partir d'un avis du Conseil d'État, l'ont permis à condition qu'il ne soit pas lié à un comportement agressif et ne donne pas lieu à des activités de prosélytisme à l'intérieur de l'école publique laïque. Ils ont appliqué à l'islam la jurisprudence élaborée lors de l'établissement du pacte laïque, à partir de 1905. Le problème est donc essentiellement financier (fonds nécessaire pour la construction de mosquées), et culturel : d'un côté des populations d'immigrants récents qui ont à s'adapter à la laïcité française – la République avait eu, en Algérie notamment, une politique assez proche de celle du « millet » ottoman – et de l'autre les mentalités françaises parfois nostalgiques encore de l'époque coloniale.

7.3 Il existe également un développement de différentes formes de bouddhisme en France (Petit et Grand Véhicule). Cette religion bénéficie de la popularité du Dalaï Lama et tout semble se passer sans problèmes. Une communauté a été reconnue comme " congrégation " et, depuis le début de 1997, le bouddhisme s'est ajouté à différents cultes chrétiens, au judaïsme et à l'islam dans la liste des émissions religieuses de la télévision publique.

7.4 Signes d'extension du pluralisme, ces faits montrent aussi que si, juridiquement, le pluralisme français est ouvert, sociologiquement il comporte des caractéristiques de pluralisme fermé qui élargit peu à peu ses limites. Cela est particulièrement observable dans l'attitude vis-à-vis des groupements qualifiés de « sectes ». Au lieu de considérer les écarts qui peuvent exister entre certains idéaux ou pratiques de ces groupes et des lois et d'examiner si la situation est bloquée ou si elle évolue, une Commission parlementaire a dressé, fin 1995, une liste de 172

mouvements considérés comme socialement " dangereux ". Des groupes mis en cause ont cherché, sans succès, à savoir ce qui leur était exactement reproché. Or cette liste a acquis une valeur quasi-canonique auprès de certains médias qui s'y réfèrent régulièrement (F. Champion, M. Cohen eds., 1999). Les reproches qui leur sont faits se rapprochent de ceux effectués au début du XXe siècle contre les congrégations catholiques et concernent les domaines financiers, sexuels, ou de rupture avec la société globale. S'y ajoute également le grief de refuser certaines pratiques médicales. Mais alors que les accusations sont différentes suivant les groupes concernés, il se produit un effet d'amalgame auprès de l'opinion publique. De plus, les accusations faites ne pourront donner lieu à un débat contradictoire (les parlementaires sont couverts par une immunité liée à leur fonction), il est difficile de savoir dans quelles mesures elles sont réellement fondées. En fait, on ne comprend pas pourquoi ; s'il y a des atteintes faites aux lois, cela ne donne pas lieu à des poursuites judiciaires et à des condamnations (celles-ci sont fort peu nombreuses) plutôt qu'à une dénonciation quasi-officielle qui peut induire un arbitraire administratif. Ainsi, les redressements fiscaux qui sont actuellement demandés aux Témoins de Jéhovah en France me semblent porter atteinte à l'égalité proclamée des religions. Pour le reste, il faut rappeler qu'effectivement, personne n'est au-dessus des lois : ni Églises, ni congrégations, ni sectes et que les groupements religieux doivent laisser à leurs membres la liberté de s'engager et de se désengager. Le religieux est toujours porteur d'une intensité convictionnelle qui peut conduire à des dérives et à des fanatismes, mais qu'il s'agisse d'une religion majoritaire et très ancienne ou d'un mouvement religieux très minoritaire et très récent, la démocratie doit viser à ce que les règles – qu'il s'agisse de la protection de la liberté ou de la répression des abus – soient les mêmes pour tous.

Il est possible de se demander si certains ne tentent pas de compenser l'impossibilité juridique de limiter le pluralisme par une sorte de surenchère idéologique. Mais cette explication reste partielle. Plus généralement si des problèmes réels de déviance, au lieu d'être traités en tant que tels, donnent lieu à des stigmatisations globales, cela s'explique par un ensemble d'évolutions sociales dans lesquelles prennent place la non maîtrise d'un pluralisme éclaté et la montée d'indignations collectives, en osmose avec des mutations du système des médias.

7.5 Le pluralisme, en effet, est en train de changer de nature. L'évolution générale du monde contemporain caractérisée par la perte d'emprise des grandes institutions réactualise, en France, d'une nouvelle

manière, la cassure révolutionnaire et ses suites. Les religions n'arrivent guère à englober la vie de leurs « fidèles » (et le développement de ce que l'on appelle les « intégrismes » est aussi une réaction face à cela). Désormais, se développe un individualisme religieux où chacun veut être maître de son itinéraire spirituel. Et il ne s'agit pas de choisir en conscience, mais de ne pas avoir à faire de choix. Ainsi des catholiques peuvent avoir des responsabilités dans certaines paroisses protestantes où ils vont au culte, tout en continuant à s'affirmer catholiques. Ainsi des chrétiens mêlent résurrection et réincarnation, des croyances « traditionnelles » et d'autres plus ou moins issues du « new age ». Parallèlement au développement de l'indifférentisme se produit une déstructuration des croyances. Il s'agit à la fois d'une réaction contre des institutions trop sûres d'elles-mêmes et d'une attitude consumériste où l'individu met en avant ses intérêts propres, ses désirs du moment et n'accepte plus, finalement, d'autres références que lui-même.

Pourtant, il faut bien que se produise du lien social, et le symbolique y joue un rôle essentiel. Alors une institution devient, dans tous les pays modernes, de plus en plus prégnante à ce niveau : la télévision. Un Français la regarde en moyenne vingt et une heures par semaine. Elle privilégie, de plus en plus, l'émotionnel et propose une morale sauvage faite d'indignations collectives, forcément standardisées puisqu'elles doivent être simultanées chez des millions de téléspectateurs. Cela suppose le développement d'une forme unique de pensée, imprégnée par des images et des mots chocs, s'éloignant de l'esprit critique du « libre-examen » et des procédures rationnelles de débats que recherchait la culture laïque (J. Baubérot, 1997).

À mon sens, il ne s'agit de rien de moins que d'éléments d'un nouveau totalitarisme, doux et feutré, au contenu d'extrême centre qui provient de la conjonction entre un sens flottant et des affirmations péremptoires. Pour le moment il reste englobé par la démocratie. Mais en donnant de plus en plus d'importance sociale à ce qui est factice, il pourrait bien, à l'avenir, l'entraîner vers sa chute. Il existe, en effet, deux manières de briser la liberté de conscience : la première consiste à supprimer politiquement la liberté par la violence, la seconde à détruire socialement la conscience par la médiocrité généralisée.

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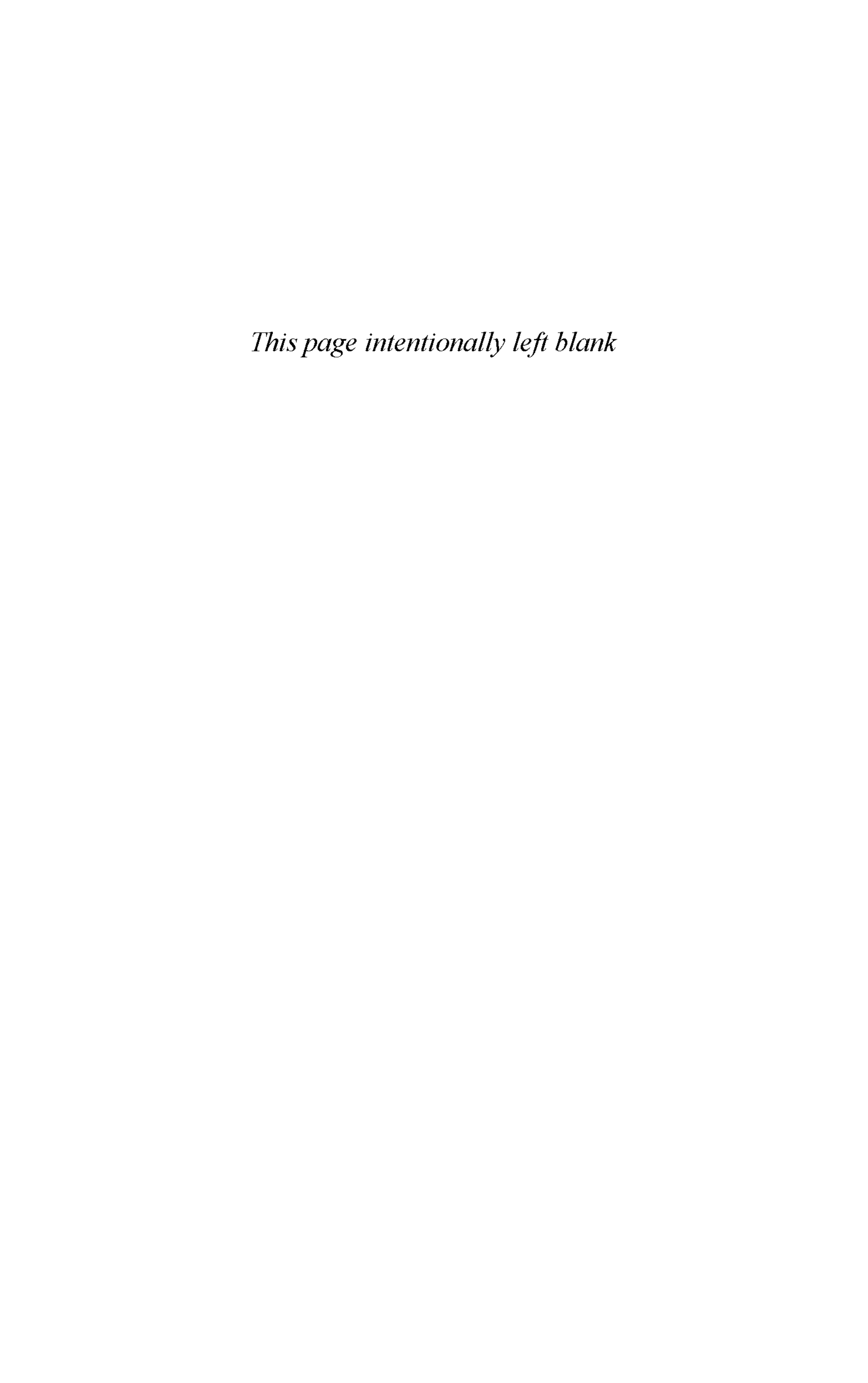
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LA LIBERTÉ RELIGIEUSE DANS UNE SOCIÉTÉ SÉCULARISÉE : L'EXPÉRIENCE QUÉBÉCOISE

André Carbonneau

Dans une société sécularisée, le défi de plaider devant les tribunaux en faveur de la liberté religieuse est particulièrement accentué lorsque cette société a été, par le passé, elle-même fortement empreinte de la religion. C'est le cas de la province de Québec.

En effet, il n'y a pas si longtemps, la vie québécoise était dominée dans une large mesure par l'Église catholique : « Le Québec de la première moitié du XXe siècle enferme sa culture originale, où la langue et la foi se protègent mutuellement, dans une structure sociale dominée par l'Église catholique[1] ». Il suffit de considérer brièvement les origines de la société québécoise pour comprendre l'exactitude de cette affirmation. Le Québec a été colonisé en 1608. Il était alors appelé Nouvelle-France et faisait partie de l'Empire colonial français. Son premier gouverneur, Samuel de Champlain, « ne voulait que des catholiques dans son nouveau monde. Ceux qui vinrent avec lui [...] étaient déterminés à étendre l'Église [...] de sorte que l'Église devint l'État[2] ».

Ce mariage entre l'Église et l'État, vestige du Moyen Âge, était le modèle gouvernemental que l'on retrouvait à l'époque en France et qui a donné lieu à de nombreux abus, pour enfin mener à la Révolution française de 1789. Cependant, bien que la France se soit débarrassée de l'emprise de l'Église sur le gouvernement et l'État, le Québec n'a pas bénéficié des effets de cette révolution, car il faisait partie de la Couronne britannique depuis 1759.

Peu de temps après qu'elle eut conquis la Nouvelle-France, la Grande-Bretagne devait faire face, en 1776, à la révolution de ses colonies américaines. Afin de s'assurer que les colons de la Nouvelle-France ne se joignent pas à cette révolution et n'appuient d'aucune façon les Américains dans leur rébellion, les conquérants britanniques avaient conclu une alliance avec l'Église catholique :

> Lorsque le Canada tomba sous la domination anglaise, l'Église chercha naturellement à sauver la foi en protégeant son autorité.

> [...] C'est qu'après la débâcle de 1760, elle était restée seule à pouvoir servir de guide et d'appui à un peuple vaincu [...]. Aussi, après des débuts difficiles, les deux pouvoirs trouvèrent avantageux de convenir d'un *modus vivendi*. L'Église promit sa loyauté en échange de la liberté religieuse et elle tint scrupuleusement parole. [...] La foi étant assurée, les hommes d'Église ne se soucièrent guère de la liberté démocratique[3].

Utilisant l'autorité ainsi confiée par les conquérants, l'Église catholique a étendu sa domination politique et spirituelle sur les Québécois dans tous les domaines de la vie : « La domination de l'Église était pratiquement absolue ». En effet, un clergé résolu a réussi à introduire l'Église « dans les services du gouvernement, dans les établissements d'enseignement, dans les milieux d'affaires et dans les foyers [...]»[4]. Dans les édifices du Parlement de Québec, on retrouvait même, au côté du trône du lieutenent-gouverneur du Québec, un trône installé pour le cardinal. L'abus de ce système est devenu particulièrement manifeste durant le règne de Duplessis, période que les historiens qualifient aujourd'hui de «la grande noirceur».

Il est évident que dans un tel climat social, la liberté religieuse se limitait au droit du citoyen québécois de pratiquer sa religion catholique ; toute divergence était fortement censurée. Par exemple, lorsque le groupement religieux des Témoins de Jéhovah a entamé sa campagne de prédication dans les foyers québécois au début du XXe siècle, ses membres ont été « bafoués, persécutés et honnis » par la société québécoise. Ils ont dû « combattre par des moyens légaux Église, État, nation, police et opinion publique»[5]. Dans les années 1940, le clergé et les autorités agissaient de concert pour tenter de chasser les Témoins de la province.

> La chasse à l'homme contre les Témoins de Jéhovah se poursuit avec plus d'intensité que jamais dans la ville de Québec. Comme ses ministres cherchent maintenant à incommoder les gens en leur offrant même gratuitement leurs livres, le chef de police informe le public que Radio-Police est à la disposition de tout le monde pour libérer les rues des Témoins de Jéhovah. Les gens qui sont approchés par ces prévenus n'ont qu'à appeler Radio-Police qui se fera un devoir de répondre immédiatement à leur appel[6].

Traînés devant les tribunaux à maintes reprises, les membres de ce groupement ont dû affronter la colère des juges qui voyaient leurs propres convictions religieuses, ainsi que celles de leurs concitoyens, menacées par l'évangélisation faite par cette nouvelle religion. Par exemple, pour monsieur le juge J.-H. Lemay, les écrits des Témoins contenaient « une foule de choses que comme catholiques et chrétiens nous sommes obligés de qualifier d'injurieuses et erronées[7].» Une vingtaine d'années plus tard, dans une autre affaire impliquant les Témoins, le même juge prévient les Témoins : « Retournez donc en Ontario et dans l'Ouest où l'on vous endure et débarrassez donc la province de Québec[8]». Même devant la Cour suprême du Canada, dans trois causes importantes (1950, 1953 et 1959) impliquant la liberté religieuse des Témoins, les juges canadiens français qui siégeaient à l'époque sur cette cour étaient contre eux[9]. Dans ces causes, la majorité des juges de la Cour suprême ont cependant donné raison aux Témoins. Ces décisions importantes ont consacré le droit à la liberté de religion qui devait dorénavant être respecté par les autorités publiques de la province de Québec, incluant le premier ministre Duplessis.

Mais tout ceci s'est produit à une époque où le Québec était encore sous l'emprise du clergé catholique, qui ne favorisant guère les libertés démocratiques. Cependant, les temps ont changé, la Révolution tranquille a percé « la grande noirceur », et peu à peu l'Église catholique a perdu son emprise sur la province de Québec. Avec une rapidité étonnante, la société québécoise est devenue une société séculière et, dans une large mesure, non pratiquante[10]. De nos jours, l'influence de l'Église catholique est devenue plus culturelle que religieuse. Ce sont les activités traditionnelles telles que les mariages, les fêtes et les funérailles qui intéressent les gens, et non la pratique religieuse elle-même. De plus, les phénomènes de l'immigration et des réfugiés ont contribué à implanter dans la province d'autres religions autrefois inconnues des Québécois.

Pour ce qui est du droit à la liberté religieuse qui avait été élaboré suite aux décisions de la Cour suprême du Canada dans les causes impliquant les Témoins de Jéhovah, il s'est vu consacré par le législateur. Par exemple, le législateur québécois s'est doté d'une *Charte* de droits et libertés qui cristallisait les droits démocratiques et les garantissait pour tous les citoyens[11]. En 1982, le Canada a pour sa part modifié sa constitution pour y inclure la *Charte canadienne des droits et libertés*[12]. Cette Charte, de nature constitutionnelle, est devenue la loi suprême de tout le pays, incluant évidemment la province de Québec. Dorénavant, les

Québécois pouvaient, en principe, invoquer ces deux *Chartes* en défense de leurs droits démocratiques.

Pendant la deuxième moitié du XXe siècle, l'attitude des tribunaux québécois vis-à-vis de la liberté religieuse a particulièrement été mise à l'épreuve dans des causes impliquant des questions de garde d'enfant. Dans ces causes, il arrivait souvent que les deux parents appartenaient à la religion catholique lors de leur mariage. Toutefois, en cours de route, l'un d'eux s'était converti à une nouvelle religion. Parfois, diverses difficultés étaient survenues dans le couple, souvent non reliées à la question de la religion, aboutissant à une séparation ou à un divorce. Lors des procédures judiciaires, la conversion de l'un des conjoints à une nouvelle religion lui était immanquablement opposée. Dans la grande majorité des cas rapportés, la nouvelle religion en question était celle des Témoins de Jéhovah[13]. Dans plusieurs cas, le simple fait que l'un des parents se soit converti à cette religion lui a valu soit de perdre complètement la garde[14], soit de se voir imposer des restrictions sur la pratique de sa religion[15].

Le défi pour le juge siégeant sur de telles causes est de faire abstraction de ses valeurs personnelles, ainsi que de celles de la société en général. Il doit s'en tenir aux faits et au droit applicable. Une cause récente qui a dû aller jusqu'à la Cour suprême du Canada illustre bien ce dilemme. En 1995, M. le juge Fournier de la Cour supérieure du Québec devait décider de la garde d'un enfant de six ans. Dans cette affaire, le couple, après avoir fait vie commune pendant trois ans et demi, s'est séparé. Le père, qui était catholique, revendiquait la garde de l'enfant, invoquant le fait que la mère était devenue Témoin de Jéhovah et que l'influence de cette religion était susceptible d'être néfaste pour son enfant. Pour sa part, la mère n'avait aucune objection à ce que le père implique l'enfant dans ses activités religieuses catholiques. Deux experts ont témoigné à l'effet que la mère pratiquait sa religion d'une façon raisonnable et que rien dans sa pratique n'était préjudiciable à l'enfant. Dans son jugement, le juge Fournier a constaté que la mère était une personne raisonnable, alors que le père semblait incapable de faire preuve de « modération » face à la nouvelle religion de la mère. Il a donc accordé la garde à la mère. Cependant, sans aucune raison apparente, il lui a imposé des restrictions, de sorte qu'elle ne pouvait impliquer son enfant tant soit peu dans ses activités religieuses[16]. Elle ne pouvait même pas se faire accompagner par son fils lorsqu'elle se rendait à son église pour un mariage ou des funérailles. La cause a été portée en appel.

Devant le banc de la Cour d'appel du Québec, où l'on retrouvait MM. les juges Beauregard, Baudouin et Robert, la discussion sur la question de

la fréquence des réunions religieuses hebdomadaires a été particulièrement animée. Pour M. le juge Robert, la fréquence de ces offices était inquiétante. Selon lui «traîner l'enfant à des réunions trois fois par semaine» était inacceptable. Ici, la Cour semblait avoir de la difficulté à composer avec une religion qui favorise « un style de vie imprégné de croyances et de pratiques religieuses[17]», c'est-à-dire avec une religion dont la pratique affecte la vie quotidienne de ses pratiquants, contrairement aux grandes religions occidentales qui n'affectent que très peu la vie quotidienne de leurs membres. Pourtant, voilà à peine quelques décennies, la vie de tous les Québécois était complètement gouvernée par la religion. De plus, l'honorable juge semblait faire abstraction du fait que, bien qu'il soit vrai que la majorité des Québécois catholiques ne fréquentent aujourd'hui que très rarement leur église, les adeptes de plusieurs religions minoritaires tels les Adventistes, les Baptistes et autres fréquentent leur église plus d'une fois par semaine.

Malgré la preuve que les activités religieuses de la mère n'étaient en aucune façon préjudiciables à l'enfant, la Cour d'appel a majoritairement maintenu les restrictions sur les activités imposées par le tribunal de première instance. M. le juge Beauregard, pour sa part, était dissident. Selon lui, bien qu'il aurait maintenu la restriction sur les visites de porte à porte (il ne dit pas pourquoi), il n'y avait «pas de preuve, directe ou par présomption» qui justifiait la prohibition pour la mère de se faire accompagner par son enfant aux cérémonies et réunions. Pour les deux autres juges, Baudouin et Robert, il était justifié que le tribunal de première instance restreigne les activités religieuses de la mère avec l'enfant, afin d'en arriver aux «meilleures conditions possibles en vue de son meilleur intérêt[18]». Ces juges n'ont cependant pas indiqué quelle était la justification pour cette mesure extrême. La seule justification pour leur décision semblait simplement être la «présomption» selon laquelle la pratique de la religion de la mère n'était pas dans le meilleur intérêt de l'enfant.

La cause a été portée devant la Cour suprême du Canada. Avec sa requête pour permission d'appeler, la mère a aussi présenté une requête en sursis demandant qu'on lui permette d'amener son enfant à une cérémonie de mariage qui aurait lieu à son église quelques semaines plus tard. Dans un arrêt faisant jurisprudence, la Cour, avant même d'entendre la cause sur le fond, a «permis à la requérante d'amener son fils à la cérémonie de mariage de leurs amis le 7 juin [suivant] ainsi qu'à tout autre mariage, funéraille ou baptême qui pourraient avoir lieu dans la parenté de l'enfant [...][19].» Ceci semble être la première fois que la Cour accordait une telle

requête dans le cadre d'une cause de garde d'enfant. En rétrospective, il est remarquable, voire même étonnant, qu'une mère se soit vue obligée de demander la permission au plus haut tribunal du pays d'assister, avec son enfant, à une simple célébration de mariage dans son église. Toutes les garanties de liberté religieuse enchâssées dans les Chartes n'avaient eu pour elle que très peu d'effet tant qu'elle se trouvait devant les tribunaux québécois.

Lorsque la cause a été plaidée sur le fond, certains juges de la Cour suprême ont éprouvé de la difficulté avec le fait que la mère puisse être accompagnée de son fils dans sa pratique du porte-à-porte lorsqu'elle participait à son service communautaire religieux. Le débat sur cette question a été ardu. Finalement, la Cour a convenu, à l'unanimité, que les pratiques religieuses de la mère, que ce soit de se faire accompagner aux offices religieux ou d'aller de porte en porte, ne compromettaient en aucune façon le meilleur intérêt de l'enfant. Toutes les restrictions sur ces activités religieuses ont donc été supprimées[20]. Finalement, après une longue bataille, la liberté religieuse de cette mère et le droit de son enfant d'être élevé selon les préceptes de ses deux parents, même si ces derniers n'avaient pas les mêmes croyances, ont été confirmés par le plus haut tribunal du pays.

Tout ceci illustre la difficulté de plaider en faveur de la liberté religieuse dans une société devenue laïque. Les minorités religieuses doivent lutter pour « protéger leurs adeptes contre les effets assimilateurs d'une société laïque[21] ». De plus, ces minorités « qui ont tenté de maintenir un style de vie non laïque sont encore plus exposées aux stéréotypes, aux préjugés sociaux ou à la marginalisation[22]».

Ceci est manifeste dans les pays d'Europe où les autorités publiques ont mis sur pied des commissions parlementaires pour enquêter sur les «sectes». Le danger de «l'expansion oppressive de l'étatisme» dans ces cas est évident[23]. En France, suite à une telle enquête, plusieurs religions minoritaires ont été mises sur une «liste noire», étant dorénavant considérées comme dangereuses, alors que les grandes religions majoritaires continuent de jouir de leur pleine liberté. Pour certains, cette tentative de marginaliser et même d'opprimer[24] les minorités religieuses françaises n'est, en réalité, qu'une version moderne des persécutions religieuses du Moyen Âge.

Il est peu probable que les autorités québécoises imitent les gestes anti-religieux posés par les Français. La Constitution canadienne et la Charte québécoise militent contre une telle éventualité. Cependant, le phénomène de la sécularisation de la société québécoise, ainsi qu'une certaine

méfiance vis-à-vis de toute religion suite aux abus de l'Église catholique envers le peuple québécois dans un passé non trop lointain incitent à la prudence. Comme le disait le juriste irlandais, John Philpot Curran, «le prix de la liberté est l'éternelle vigilance[25]».

NOTES

1. M. Sarra-Bournet, *L'affaire Roncarelli – Duplessis contre les Témoins de Jéhovah*, Québec, Institut québécois de la recherche sur la culture, 1986, p. 140.

2. Traduction d'une citation d'une étude sociologique des problèmes du Canada intitulée *Canada 70* dans F. Kelly et al., *The Threat of Separation*, Toronto, McClelland & Stewart, 1969, p. 5.

3. P. E. Trudeau, *Le fédéralisme et la société canadienne-française*, Montréal, Éditions HMH, 1967, p. 112.

4. Kelly et al., *op cit.*, p. 116. Pour un aperçu de l'étendue du contrôle qu'exerçait le clergé de l'époque sur la vie quotidienne des citoyens québécois, voir M. E. Raina, *We Have Written*, Napean, Private publishing, 1976.

5. Trudeau, *op. cit.*, p. 225.

6. *L'Action Catholique*, le 8 novembre 1946, p. 13.

7. Sarra-Bournet, *op. cit.*, p. 80; Voir aussi *Rex. v. Kinler* et al, (1925) Qué. S.C. 483-486.

8. *La Tribune*, le 26 novembre 1946, p. 3 in Sarra-Bournet, *loc. cit.*, p. 80.

9. Voir tableau comparatif in Sarra-Bournet, p. 83.

10. Déjà en 1969 on constatait une baisse de 50% des fidèles assistant à la messe. De plus, le nombre de candidats à la prêtrise avait aussi diminué de façon importante. Voir Kelly et al., *op. cit.*, p. 119 et 120.

11. *Charte des droits et libertés de la personne*, L.R.Q., c. C-12.

12. *Loi de 1982 sur le Canada*, Annexe B, 1982 (R.-U.) c. 11.

13. J. T. Syrtash, *Religion and Culture in Canadian Family Law*, Toronto, Butterworths Canada, 1992 à la p. 33. Cet auteur fait un survol des décisions des tribunaux canadiens en matière familiale et constate une certain préjugé judiciaire : «The judicial prejudice against Jehovah's Witnesses and certain Pentecostal Churches in custody and access disputes is particularly disturbing (...).» Les Témoins de Jéhovah ont dû en effet se défendre à plusieurs reprises devant les tribunaux québécois afin d'avoir le droit de pratiquer leur religion avec leurs enfants : *R.* c. *G.* (11 novembre 1977), Montréal 500-12-059394-761 (C.S.); *C.* c. *B.* (21 octobre 1981), Arthabaska 415-12-000982-806 (C.S.); *C.* c. *P.* (6 octobre 1982), Hull 550-12-003710-79 (C.S.); *L.* c. *L.* (2 février 1984), Beauharnois 760-12-005518-83 (C.S.); *T.* c. *L.* (7 février 1984), Saguenay 240-12-000373-83 (C.S.); *S.* c. *L.* (6 juin 1984), Roberval 155-12-000678-802 (C.S.); *A.* c. *F.* (6 juin 1984), Montréal 500-04-003212-819 (C.S.); *S.* c.

G. (1984), 39 R.F.L. (2d) 298 (C.S.); *P.* c.. *L.* (19 décembre 1984), Montréal 500-12-135890-840 (C.S.); *A.* c. M. (18 avril 1985), St-Maurice 425-12-C-0415-830 (C.S.); *R.* c. *D.* (9 mai 1985), Montréal 500-12-137422-840 (C.S.); *A.* c. *S.-P.* (17 juillet 1985), Québec 200-09-000414-851(C..A.); *Droit de la famille – 260* (1985), 50 R.F.L. (2d) 296 (C.S.); *B.* c. *M.* (23 janvier 1986), St-Maurice 425-12-000415-830 (C.S.); *P.* c. *L.* (20 mars 1986), Montréal 500-09-000202-853 (C.A.); *S.* c. *G.* (5 juin 1986), Montréal 500-12-130381-837 (C.S.); *P.* c. *T.* (16 octobre 1986), Montréal 500-12-152078-865 (C.S.); *Droit de la famille – 1150* (25 janvier 1988), Hull 550-04-000504-841 (C.S.); *S.* c. *L.* (24 mars 1988), Montréal 500-04-0002477-877 (C.S.); *C.* c. *B.* (6 avril 1988), Abitibi 615-04-000152-873 (C.S.); *H.* c. *L.* (1988), 13 R.F.L. (3d) 134 (C.S.); H. c. P. (29 juillet 1988), Trois-Rivières 400-12-006072-869 (C.S.); *A.* c. *B.* (2 août 1988), St-Hyacinthe 750-04-0000116-881 (C.S.); *C.*_c. *J.* (24 novembre 1988), Montréal 500-12-162445-872 (C.S.); *B.* c. *D.* (22 mars 1989), Drummond 465-12-003322-894 (C.S.); *I.* c. *B.* (21 juin 1989), Montréal 500-12-178040-899 (C.S.); *Droit de la famille – 955*, [1991] R.J.Q. 945 (C.A.); *Droit de la famille –_1150*, [1991] R.J.Q. 306 (C.A.); *Droit de la famille – 1456* (1991), R.D.F. 610 (C.A.); *B.*_c. *T.* (29 mai 1992), Montréal 500-12-145146-852 (C.S.); *P.(D.) c. S. (C.)*, [1993] 4 R.C.S. 141; *Young* c. *Young*, [1993] 4 R.C.S. 3; *S. (L.)* c. *S. (C.)*, [1997] 3 R.C.S. 1003.

[14]. *A.C. S.-P.* (16 May 1985), D'Abitibi 605-04-000004-851 (Que. C.S.). Dans cette affaire, la mère a perdu la garde de ses trois enfants âgés, respectivement de 2, 6 et 8 ans, pour le simple fait d'être devenue Témoin de Jéhovah. La Cour d'appel du Québec a cependant renversé cette décision. Voir *Droit de la famille* - 224 (17 juillet 1985), Québec 200-09-000414-851, J.E. 85-776 (C.A.).

[15]. *S. (L.)* c. *S. (C.)* No. 450-04-000555-911 Cour Supérieure, District de Saint-François, 9 juin 1995.

[16]. La cour a imposé les restrictions suivantes à la mère :

ORDONNE à S. (L.) de ne pas amener l'enfant K. dans les démonstrations, cérémonies ou des réunions ou congrès des Témoins de Jéhovah ou faire avec lui de la prédication de porte en porte, jusqu'à ce que le Tribunal détermine que l'enfant est en état de choisir la religion qu'il voudra suivre ;

ORDONNE à S (L.), dans l'éventualité de la tenue de réunions pour fins de séances d'enseignement religieux à sa résidence privée, de faire en sorte que l'enfant ne soit point présent et que l'enfant soit, pendant cette période, mis sous la garde physique de S (C.) ;

PERMET à S. (L.) d'enseigner à K. la religion des Témoins de Jéhovah mais ordre lui est fait de ne pas l'endoctriner continuellement avec les préceptes et la pratique religieuse des Témoins de Jéhovah ;

[17]. *Adler* c. *Ontario* [1996] 3 R.C.S. 609, 661.

[18]. *Droit de la famille – 2618*, [1997] R.F.L. 215.

[19]. S. (L.) c. S. (C.) (Qué) 25894 le 29 mai 1997 Cour suprême du Canada, p. 1.

[20]. *S. (L.)* c. *S. (C.)* [1997] 3 R.C.S. 1003.

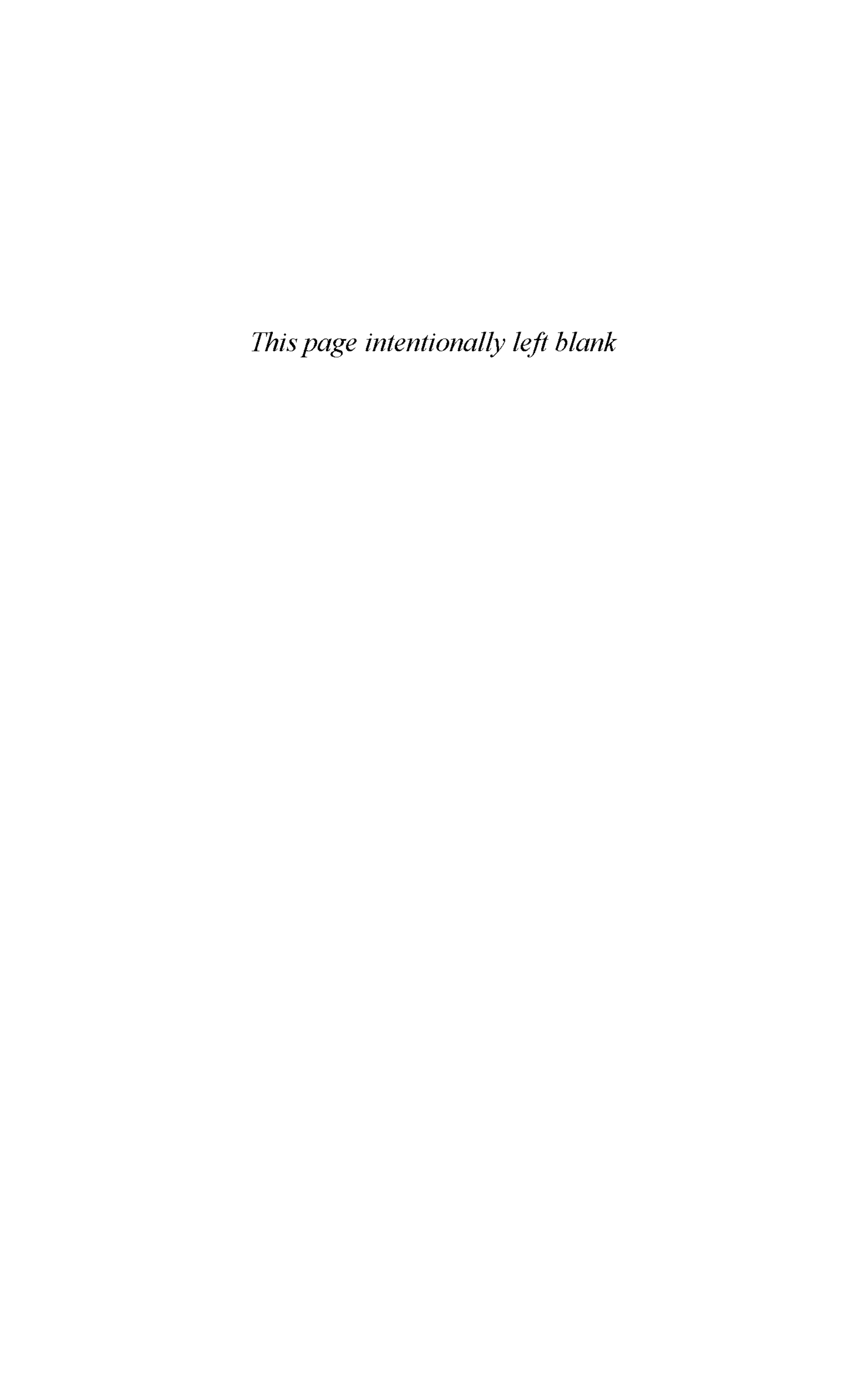
[21]. Adler, *loc. cit.*

[22]. *Loc. cit.*

[23]. M. Introvigne, « 'Sectes' et 'droit de persécution' : les raisons d'une controverse » dans *Pour en finir avec les sectes*, sous la direction de M. Introvigne et J. G. Melton, Paris, Éditions Dervy, 1996, p. 50.

[24]. Par exemple, le gouvernement français a imposé aux Témoins de Jéhovah une taxation de 60% sur les offrandes qu'ils reçoivent de leur adeptes. Évidemment, face à une telle taxation, il serait difficile pour n'importe quelle religion de survivre sur le plan financier. Voir *The New York Times*, 5 juillet 1998, p. 12.

[25]. John Philpot Curran (1750-1817), avocat irlandais et politicien, dans un discours prononcé le 10 juillet 1790 et intitulé The Right of Election of the Lord Mayor of Dublin : «The condition upon which God hath given liberty to man is eternal vigilance; which condition if he breaks, servitude is at once the consequence of his crime, and the punishment of his guilt».



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RELIGIOUS FREEDOM AND THE BEST INTERESTS OF THE CHILD : THE CASE OF JEHOVAH'S WITNESSES IN CHILD CUSTODY LITIGATION [1]

Carolyn R. Wah

INTRODUCTION

> Few areas of litigation are more difficult for dispassionate and disinterested judicial determination and more likely to evoke strong and passionate reactions by the protagonists, to cause the general public to take sides, and to incite acrimonious debate among religious groups than the area of litigation involving religious considerations in the upbringing of children. Judicial decisions refusing to allow a couple of one faith to adopt a child born to a mother of a different faith, or depriving a divorced parent of awarded custody for failure to bring up his child in a particular faith, or refusing to compel a parent to bring up his child in accordance with the antenuptial agreement which fixed its religion not unnaturally arouse strong and articulated feelings[2].

Since legal historian, Leo Pfeffer penned those words much has changed. A soaring divorce rate coupled with an increase in inter-religious and inter-cultural marriages[3], as well as an increased readiness to change one's religion[4] have contributed to a growing body of law defining the rights of parents and children involved in custody disputes where religious training is a central issue. Another factor that complicates the issue is the increased diversity of religious persuasions now active. In the United States alone, some estimates indicate that as many as 1,200 different religions are practiced[5]. In addition to the accepted mainstream faiths, there is a surge in new religious movements[6] many of which are non-Christian.

If one accepts the adage that the advancement of a civilization can best be measured in terms of its treatment of women and children, one can conclude that by extension, the best way to evaluate religious freedom is by a consideration of the freedoms extended to minority religions. Thus, a discussion of religious freedom and the best interests of children focuses the attention on children whose parents are adherents of minority religions or new religious movements. Despite the lip service paid to tolerance and mutual respect, the plain truth is that many new and minority religions with their own holidays or religious practices may be considered as different or non-traditional, and are therefore, presumed to be harmful to children. Some custody evaluators and trial judges feel that they can no longer take a neutral or impartial position on questions of religious training when religious training is at the heart of the dispute. Other trial judges seek to avoid the appearance of partiality by applying the antiquated common law rule that the custodial parent has exclusive decision-making authority on issues concerning the children's religious experience. These strategies protect neither the children's best interests nor the constitutional rights of children or parents.

Freedom of religious expression has not always been as well defined as it is today[7]. On a case-by-case basis, litigation involving individuals with strong religious motivation defined the rights now considered to be guaranteed by freedom of religion. For example, in the United States, it is well settled that the First Amendment of the Constitution protects an individual's freedom of religious expression. This came about because one of Jehovah's Witnesses was arrested while attempting to offer *The Watchtower* and *Awake!* magazines to his neighbors[8]. The rights of conscientious objectors and the definition of a "minister" were defined when several of Jehovah's Witnesses carried their cases to the United States Supreme Court[9]. And young children in school are not compelled to act contrary to their conscience and salute the country's flag because a West Virginia school board expelled children of Jehovah's Witnesses for respectfully standing while their classmates voluntarily participated in this patriotic ceremony[10]. While all the individual litigants were Jehovah's Witnesses, the rights defined in their case benefited all citizens. Similar cases in other countries have had the same impact on the definition of religious freedom [11].

Why are cases involving Jehovah's Witnesses so controversial? What is there about their teachings and beliefs that brings them into conflict with governmental authorities? Is there something harmful or dangerous about the teachings and beliefs of Jehovah's Witnesses? In particular, why do so

many cases involving disputed religious training involve one parent who is one of Jehovah's Witnesses?[12] This article will address these questions and focus on the following topics : Part I will include a brief overview of the law touching the best interests standard and the First Amendment guaranteeing the free exercise of religion with consideration of the broad general principles available to a decision-maker in a disputed religious training case. Part II will discuss some history and background of Jehovah's Witnesses, including their primary religious beliefs and practices as explained by their literature, as well as explore the trends and complaints found in a "typical" case. Part III will discuss the religious practices of Jehovah's Witnesses as these religiously motivated practices are attacked in court and analyze how courts have resolved these issues. Finally, Part IV will present a constitutionally sensitive model of resolution of conflicts concerning religious training.

Part I

1.1 The best interests test

The best interests standard is the universal standard for determining placement and custody of minor children. Article III of the UN Convention on the Rights of the Child, which has been ratified by all member nations except Somalia and the United States of America, provides that "in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."[13] Despite its universal acceptance as a legal standard, the legislative definition of best interests varies from jurisdiction to jurisdiction. For example, some states, such as New York, provide very limited legislative guidelines, so the practitioner must construct a definition of the best interests standard from case law[14]. In other jurisdictions, such as Michigan, courts are bound by specific legislatively defined factors and are required to make specific findings on each factor, rendering a decision under the best interests standard[15] Whether legislatively or judicially defined, the best interests standard, as an expression of the government's *parens patriae* authority, offers the trial judge broad investigatory powers and discretionary authority to act for the protection on behalf of the minor child. While this standard is not without its critics, it appears reasonable to conclude that the best interests standard

will continue to be the evidentiary standard and the paramount interest in all custody, placement, and visitation cases concerning minor children.

How does this broad best interests standard guide the trier of fact in determining which course of religious training best serves the child's interests? In practice, the best interests standard gives no direction. Several state legislatures indicate that the child's adjustment to his or her religious community is a relevant factor[16]. Appellate case law is universally settled, however, that the religious affiliation *per se* may not be the determining factor in awarding custody[17].

Under the broad best interests standard, some trial judges continue to select from a variety of general rules, some of which have been passed down from the common law. For example, the general rule that the custodial parent should have final decision-making authority in matters concerning medical health and education is a vestige from a common law rule that the custodial parent, at that time always the father, had final decision-making authority over the minor child[18]. Several jurisdictions have codified this common law legacy[19]. Social science, too, has had an impact in developing the general rules or presumptions that are generally applied under the best interests test[20]. For example, the custodial parent is likely to be the "psychological" parent[21] and there is a presumption that siblings should not be separated[22].

There is also a general rule that when a minor has sufficient age and maturity to express a preference for custodial placement, then the expression of the minor should be weighed as an important factor in determining the child's placement[23]. These "general rules" have various roots and can flourish comfortably under the broad best interests standard. However, problematic and unfair decisions are likely to be rendered when the judge, relying on a limited subset of the available facts, applies a general rule instead of performing the meticulous fact finding necessary to render a judgment that truly serves the child's best interests. Practically speaking, the disappointed parent in such a situation is left without effective appellate review because the standard for review forbids the appellate court from substituting its judgment for the finder of fact without showing a clear abuse of discretion[24]. Thus, the standard forces the trial judges to work out their own perception or definition of "best" in evaluating the fitness of the proposed custodial parent.

1.2 Constitutional rights

Despite the formal language that appears in many child custody appellate opinions indicating that the best interests is a paramount interest in determining placement of a child, clearly it is not the only interest or right that must be considered by a trial judge. Judicial restraint and impartiality are required when a judge is asked to validate one parent's standard for normalcy on issues such as education, including home schooling and pursuit of formal higher education[25]. Thus, while many appellate opinions explain that the best interests of the child are paramount, that broad language can not be taken literally. As in civil proceedings, constitutional rights and other legitimate state interests must be carefully interwoven, considered, and balanced.

Civil courts are constitutionally obligated to remain neutral on matters of religious doctrine or faith[26]. Therefore, trial courts are actually constitutionally incompetent to evaluate the merits of different religious beliefs and to make comparisons. However, case law makes it clear that there is a distinction between the absolute constitutional protection for religious beliefs and protection for religiously-motivated behavior or religious practices[27]. So, it is well accepted that religious practices may be proscribed by law when a compelling state interest, such as protecting a minor from present or imminent substantial harm, requires government action. In spite of the fact that the *Religious Freedom Restoration* Act[28] designed to legislatively codify the standard presented by *Sherbert v. Verner*[29] (has been declared unconstitutional,[30] it is arguable that the high legal standard established in *Sherbert v. Verner* has withstood the attack launched in *Employment Div., Dept. of Human Res. v. Smith.*[31]. The same high standards outlined in *Sherbert v. Verner* apply in a best interests hearing because these types of cases meet the criteria of the "hybrid" exception outlined by the Supreme Court of the United States in *Smith.* Justice Scalia, writing for the majority in *Smith*, explained that there were certain "hybrid" cases that presented the court with a mixed claim under the free exercise clause as well as a claim under another First Amendment right such as speech, association, or parental autonomy[32]. Thus the compelling interests test outlined in *Sherbert* applies to a best interests hearing where testimony about religious practices may affect the First Amendment rights of parents and children.

In summary, the State cannot interfere with the parents' right to provide religious training to their children in their home during a period of custodianship, absent of clear and affirmative showing of present or

imminent substantial harm. This type of harm is not a casual inconvenience or temporary stress often experienced by children of divorce. Rather, this "harm" is similar to the harm required under an abuse or neglect statute. Evaluation of the harm requires a two-fold analysis. First, the time frame must be analyzed to determine whether the harm is present or imminent. Although the State is not required to have evidence of present harm before it acts on behalf of a minor child, the harm must be imminent to justify State intervention[33]. Future or speculative harm is insufficient to justify State intervention[34]. Second, the type of harm must be quantifiable as "substantial"[35]. Testimony from a less-than-objective parent concerning the child's confusion about being exposed to two different religious systems, or boredom during Sunday services, is not the type of harm that justifies governmental intrusion into a parent's religious practices[36]. These general rules and applications of constitutional principles to the best interests hearing are fairly well settled in all fifty states as well as Canada and other common law countries[37].

A focus on Jehovah's Witnesses and their religious beliefs and practices serves as a useful illustration for the type of religious practices most likely to create controversy. A detailed review of the Witnesses' religious literature, particularly *The Watchtower* and *Awake*! magazines published by the Watch Tower Bible and Tract Society of Pennsylvania (herein after referred to as "Watch Tower"), highlights the impact of religious as well as cultural and socio-economic factors in the determination of best interests cases.

Part II

2.1 *The case of Jehovah's Witnesses*

2.1.1 Short History of the Religious Organization of Jehovah's Witnesses

In 1931, the International Bible Students' Association or "Bible Students," as they were generally known, adopted the name Jehovah's Witnesses[38]. Based on the words of the prophet Isaiah,[39] the group took this name in recognition that, according to both Hebrew and Greek Scriptures, Jehovah[40] is the personal name of the Sovereign Lord and Creator of the universe. They also recognized that as Christians dedicated to his service they would "witness" or give testimony to their Creator's grand works and marvelous purpose for the earth.

As a legal organization, the Watch Tower Bible and Tract Society of Pennsylvania was incorporated in 1884[41]. In 1879, the corporation's first president, Charles Taze Russell, began publishing a Bible-based journal, *Zion's Watchtower and Herald of Christ's Presence.* Its companion magazine, *The Golden Age*, began publication in 1919[42]. Now referred to as *The Watchtower* and the *Awake!*, these magazines are available in 126 and 80 languages respectively and are printed bi-monthly for a readership that far exceeds the worldwide total of membership and active associates found in over 233 lands and island groups[43]. In addition to these two magazines, Watch Tower also publishes books and brochures to acquaint its readership with the values and principles outlined in the Bible. For example, recent books like *The Secret to Family Happiness; Questions Young People Ask—Answers that Work;* and *Your Youth—Getting the Best Out of It* were published to help people see what the Bible has to say on difficult day-to-day issues confronting families in the late 20th century.

Congregations of Jehovah's Witnesses include people from all races, cultures, language groups, and socio-economic categories. Regular religious services, open to the public, are held at neighborhood religious meeting places known as Kingdom Halls. Each summer, groups of congregations meet together for three-day district conventions held in public arenas or stadiums to hear Bible lectures, observe baptisms, Bible dramas, fellowship, and enjoy singing.

The modern day history of Jehovah's Witnesses contains incidents of persecution, imprisonment, and legal proscription under Hitler's Third Reich,[44] Canada,[45] Malawi,[46] Australia,[47] and Singapore[48]. However, Jehovah's Witnesses generally enjoy a fine reputation with governmental officials, whom they regard as the "superior authorities" referred to by the apostle Paul at Romans 13:1-7 and who thus merit both obedience and "subjection." Many judges, governmental officials, and professionals have complimented Jehovah's Witnesses on their fine contribution to their communities[49].

2.1.2 Jehovah's Witnesses and Child Custody Cases

In addition to holding a reputation as politically neutral and law-abiding citizens, Jehovah's Witnesses have always taken seriously Jesus' closing words to his followers : Go therefore and make disciples of people of all the nations, baptizing them in the name of the Father and of the Son and of the holy spirit, teaching them to observe all the things I have

commanded you. And, look! I am with you all the days until the conclusion of the system of things[50].

Unfortunately, enthusiasm for public preaching and their strict politically neutral position has sometimes brought Witnesses into conflict with their neighbors and governmental authorities on several important issues. During war years, governments are sensitive to any citizen who refuses military service. In peacetime, politicians sometimes adopt solicitation ordinances in an effort to control the Witnesses' access to their neighbors. Over the years, the Witnesses' resistance to forced blood transfusions has also been a legal issue in which individual Witnesses are required to assert their rights of religious freedom and to defend their faith. Thus one legal scholar observed :

> Jehovah's Witnesses' cases provided the factual vehicle for incorporation, via the fourteenth amendments due process clause, of the first amendment's guarantee of free exercise of religion against state infringement, for development of the "preferred position" theory of the first amendment jurisprudence, and for development of the foundation for the least restriction alternative analysis of limitations on first amendment activities. Additionally, the Witnesses were involved in some eleven selective services cases receiving plenary disposition. More recent Witness cases have revived the doctrine of unconstitutional conditions and reaffirmed the right to refrain from state-compelled speech[51].

Beginning with the Watch Tower Society's second president, Joseph F. Rutherford, a practicing attorney, the Society has been active and successful in civil litigation to defend the rights of individual members. During the 1940's, Hayden Covington, then general counsel, argued a record number of 43 cases at the United States Supreme Court[52]. When Witness parents began to experience religious attacks in child custody cases, the Society's Legal Department came to their assistance. Beginning in the mid-1980's, the Society ran an annual general announcement indicating that Witnesses who are involved in child custody or visitation right cases where their religion was being used against them should contact the Society's Legal Department. Those who requested such assistance then received a packet of information, including cases that have been successfully argued in state appellate courts. The information was designed to assist the Witness parent's attorney in fashioning an argument

that included First Amendment rights as well as a clear analysis of the best interests of the child. Over the years, the packet of information grew to include articles by Witness and non-Witness attorneys as well as legal scholars who have commented on these types of cases.

For some time that information was sufficient. However, in the late 1980's, two disgruntled former Witnesses began to use child custody cases as a forum to attack the Watch Tower Society, the Witnesses' interpretation of Scriptures as explained in the literature, as well as the congregation organizational arrangements. These former Witnesses offered themselves as "religious experts." By attacking the Watch Tower interpretation of religious doctrine, these former members attempted to show, as one so-called "expert" stated in a pre-trial deposition, that being raised by Witness parents is only a slight improvement over an institutionalized upbringing[53].

In one Ohio child custody case, an educational psychologist and former Witness, Gerald Bergman, Ph.D., without first-hand knowledge of the child or the Witness mother's household, claimed that Jehovah's Witnesses have a higher rate of mental illness than the general population, and asserted that the three-year-old boy should be placed in the custody of his father, a salesman who frequently traveled[54]. The mother appealed and the matter was eventually heard by the Supreme Court of Ohio, which, after considering the record, concluded that the Witness mother had been denied custody of her three-year-old son only because she was one of Jehovah's Witnesses. Commenting on the admissibility of Bergman's testimony, the Ohio Supreme Court explained:

> Dr. Bergman testified, on the basis of a dissertation he had written, that mental illness was more common among Jehovah's Witnesses than among the general population. This testimony was a blatant attempt to stereotype an entire religion. Regardless of the rate of mental illness among an entire group, that evidence does not prove that the religion in question will negatively affect a particular individual. Furthermore, this one piece of statistical evidence is meaningless. To follow this evidence to its "logical" conclusion, a court would need to compare this rate to the same rate for all faiths and for people who are not associated with any particular religion. If the latter group has the lowest incidence of mental illness, then under this reasoning we would have to forbid all parents from exposing their children to their religious beliefs[55].

Witnesses are not the only minority religion who are subject to these types of attacks from former members or cult watchers. A North Carolina adoption case involving members of The Way International became a forum for Ms. Cynthia Kisser, the Executive Director of the Cult Awareness Network in Chicago. Her testimony drew criticism from the North Carolina Court of Appeals, which explained :

> Although Ms. Kisser expressed concern over some of the practices of The Way, she testified that she had never met the Petersens or Paul. Therefore, none of her testimony could have related to the present or possible future effect of the Petersens' religious practices on Paul . . . Questions about Jesus Christ, evil spirits, speaking in tongues, tithing, and the Handbook of Denominations have no relevance to determining custody in the child's best interests. We note that other Christian sects practice in speaking in tongues and believe in evil spirits. Unless evidence of such practices could be put in a context of this particular family, it was irrelevant.
>
> To allow Ms. Kisser to speculate that the general practices and beliefs of members might be detrimental to children, is to condemn the entire membership of The Way as unsuitable parents. This result would certainly produce a chilling effect upon litigants in future cases where one spouse was a member of The Way or of some other lesser known religion[56].

Testimony from disgruntled former members, so-called "sect-experts" or "cult watchers," is not likely to provide a trial court with reliable probative testimony because these individuals generally cannot provide first-hand, relevant information about the particular children of the household. Their aim in most cases is simple—to disqualify the parent solely because of religious affiliation. While simple, these theories can rarely, if ever, withstand the scrutiny that local evidentiary rules require of admissibility of expert witnesses[57].

Although Jehovah's Witnesses have been an active and visible religious organization for over one hundred years, their beliefs and religious practices are frequently used as a leverage or tool in gaining strategic advantage in custody cases. Some trial courts give the non-Witness parents a full opportunity to air their grievances apparently hoping that the post-divorce adjustment will proceed more rapidly if both parties

have their "day in court." Other courts often feel compelled to consider these practices when a mental health professional suggests that, while the religious practice is neither illegal nor immoral, there may be some harmful impact with the particular child. What is it about the teachings and practices that lead some to the conclusion that a child could be harmed?

Part III

3.1 Religious Practices of Jehovah's Witnesses: A View from Case Law, Watch Tower Literature and Non-Witnesses Pleadings

Although not fundamentalists, Jehovah's Witnesses base their religious practices on their interpretation of the Holy Bible. Thus, when the Bible provides a clearly stated law or "rule," Witnesses generally accept the rule as a divine command. For example, they hold to traditional high moral values, which condemn stealing, lying, adultery, and murder[58] However, many private decisions and situations confronting parents today do not have a direct Biblical mandate. For example, the Bible is silent on the amount of secular training that a child should receive. So the Bible and the Watch Tower leave this decision in the hands of the individual parent[59]. Obviously, many factors would influence any parent's decision such as the expense of such education, the child's wishes and skills, and so forth. This important distinction between principle and rule is often misunderstood. Unfortunately, this misunderstanding has resulted in unnecessary conflict in religiously-divided households and with judicial and administrative bodies. The following information will examine some typical beliefs of Jehovah's Witnesses in which conflict has arisen.

3.1.1 Use of Blood Transfusions in Medical Care

All Jehovah's Witnesses want the best possible medical care for themselves and their children. They are grateful for the excellent medical care they receive from doctors and make every effort to cooperate with the medical profession for the good care of their children. As the Watch Tower publication *Family Care* explains :

> Jehovah's Witnesses avail themselves of the various medical skills to assist them with their health problems. They do not adhere to so-called faith healing and are certainly not opposed to

> the practice of medicine. They love life and want to do what ever is reasonable and Scriptural to prolong it[60].

In seeking good medical care, all parents, regardless of religious affiliation, should be aware of the risks associated with the use of blood transfusions and many doctors and lay persons have explained why they should be avoided whenever possible[61]. Jehovah's Witnesses have considered these medical and scientific reasons as well as the Bible's clear admonition to "abstain from blood."[62]

In child custody or visitation rights cases, the trial judge is concerned with acting in the best interests of the child. Are the parents willing and able to provide proper and appropriate medical care to the child? That question is an important and relevant consideration. Some non-Witness parents have alleged that because one parent is one of Jehovah's Witnesses, the child will not get adequate medical care particularly in an emergency situation in which a blood transfusion is recommended.

In the context of a best interests hearing, allegations about inadequate medical care are generally future and too speculative to be considered relevant evidence. Accepting the allegation that the Witness is unfit because he will not consent to a blood transfusion for the child requires the trial court to make various unfounded assumptions. The court must assume that the child will be seriously injured or diagnosed with a serious disease that would suggest to the licensed medical professional that a blood transfusion would be effective treatment. The court must also assume that a blood transfusion would or could be effective and safe. It must also assume that the non-Witness parent will be unavailable to provide such consent in a timely manner. In view of these assumptions, many appellate courts have dismissed the religious practice of refusing blood transfusions as a non-issue. A few years ago, the Nebraska Court of Appeals[63] explained why the mother's religious beliefs concerning the use of blood transfusions would not be considered in a best interests hearing :

> Regarding [the Mother's] refusal to consent to a blood transfusion for her children even in the event of an emergency, no evidence was presented showing that any of the minor children were prone to accidents or were plagued with any sort of affliction that might necessitate a blood transfusion in the near future. We cannot decide this case based on some hypothetical future accident or illness which might necessitate such treatment. See *Urband v. Urband*, 68 Cal.App.3d. 796, 137 Cal.Rptr. 433 (1977); *Waites v.*

> *Waites*, 567 S.W.2d 326 (Mo. 1978). Facts such as the statistical frequency of blood transfusions for normal children and the degree of risk involved in taking or refusing blood or chemical substitutes must be proved by proper evidence, like any other facts. *Osier v. Osier*, 410 A.2d 1027 (Me. 1980) In the absence of any such proof of that threshold factual requirement, there could be no legitimate occasion for the court's impingement upon [a parent's] constitutionally protected liberty interests. *Id.* at 1031 n. 7.[64]

The position taken by the Nebraska Court of Appeals reflects not only sound judicial restraint but the well-known fact that recent research and study no longer supports the assumption that blood transfusions are always safe and effective[65]. In fact, the vast majority of medical literature on the subject written since the mid-1980's indicates that non-blood alternative substitutes are very effective and do not carry the numerous risks of disease transmission associated with transfused blood. As the 1988 Report *of the Presidential Commission on Human Immunodeficiency Virus Epidemic* plainly advised :

> Informed consent for transfusion of blood or its components should include an explanation of the risks involved with the transfusion of blood and its component, including the possibility of HIV infection, and information about appropriate alternatives to homologous blood transfusion therapy...In health care facilities, all reasonable strategies to avoid homologous blood transfusion (blood from others) should be implemented[66].

Since that report in 1988, Watch Tower has been increasingly aware of the needs of the Witnesses and their families who could be faced with a suggestion for use of a blood transfusion. In that same year, Hospital Information Services, a headquarters department, was established with the purpose of reminding the medical community of the risk of blood transfusions as well as of the numerous non-blood medical alternatives and providing information to doctors, hospital administrators, and Witnesses who wanted to know more about safer transfusion options. To date, over 120 cities in the United States maintain local Hospital Liaison Committees, which work in close coordination with the Hospital Information Services Department at headquarters. These committees, comprised of local Witness elders, meet regularly with hospital administrators and with

physicians and risk managers who want to understand the ethical as well as medical options available to them in the treatment of adult and minor patients. As a result of this successful organizational effort, Witnesses have been able to avoid confrontations with physicians and hospital administrators who, in turn, have been able to explore new non-blood medical techniques, which have been a benefit both to Witness and non-Witness patients.

3.1.2 Jehovah's Witnesses are Not A Dangerous Cult

Jehovah's Witnesses deny being either a sect or a cult, as the Watch Tower publication *Reasoning from the Scriptures* explains :

> A *cult* is a religion that is said to be unorthodox or that emphasizes devotion according to prescribed ritual. Many cults follow a living human leader, and often their adherents live in a group apart from the rest of society. The standard for what is orthodox, however, should be God's Word, and Jehovah's Witnesses strictly adhere to the Bible. Their worship is a way of life, not a ritual devotion. They neither follow a human nor isolate themselves from the rest of society. They live and work in the midst of other people[67].

Some who tried to allege that Jehovah's Witnesses were a cult and under the control of the Watch Tower Society have, in certain child custody cases, alleged that any Jehovah's Witness will lie under oath in order to protect the Society from appearing in a bad light. For example, former Witness Gerald Bergman, mentioned previously, testified in a will contest case that as part of their belief system, Jehovah's Witnesses are excused from lying to governmental officials. Dr. Bergman claims that the Witnesses believe that governments are part of Satan's earthly organization and are, therefore, enemies of God who are not entitled to know the truth[68]. Bergman's argument is based on a twisted interpretation of quotations from Watch Tower literature together with a clear intent to destroy the testifying Witness' credibility in a court of law. On appeal, the Ohio County Court of Appeals for Wood County ruled that admission of Bergman's testimony was a clear violation of the Ohio Rules of Evidence 610, which is patterned after the Federal Rules of Evidence. The Wood County Court of Appeals explained :

> Evid. R. 610 is specific :
>
> "Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature his credibility is impaired or enhanced." The effect of Dr. Bergman's testimony would allow one to conclude that: (1) Attorney Walter Kobil was a believer (2) the church theology encourages perjury to protect the church (3) Attorney Kobil was willing to lie to protect the church and (4) therefore Attorney Kobil is not credible. Evid. R. 610 prohibits this type of attack on the credibility of a witness. The admission of the evidence was, therefore, error.
>
> However, we find the admission of Dr. Bergman's testimony regarding the doctrines and beliefs of appellant church and its members to be reversible error because it was offered for its only conceivable use : to unfairly impeach the credibility of church members[69].

Do Jehovah's Witnesses believe it is appropriate to lie to a trial judge under oath? The firm answer is no. Watch Tower literature has stated so quite clearly for many years. For example, *The Watchtower* of June 1, 1960, considered the following question : "From time to time letters are received asking whether a certain circumstance would justify making an exception to the Christian's obligation to tell the truth?" In part, the answer was: "Should circumstances require a Christian to take the witness stand and swear to tell the truth, then, if he speaks at all, he must utter the truth."[70] Despite this clear Scripturally based explanation, Bergman asserts that Witnesses feel justified in lying to government officials.

Concerning Jehovah's Witnesses' view of the governmental authorities, Paul's words at Romans 13:1 and Titus 3:1 require Christians to acknowledge the sovereignty of governmental authorities as the "superior authorities." Jehovah's Witnesses interpret the term "superior authorities" to refer to the governmental structure[71]. Thus, their journal *Awake!* clearly and succinctly explains the Witnesses' view of individuals in governmental authority :

> It would be incorrect to conclude that all humans in governmental authority are Satan's tools. Many have proved themselves people of principle, such as the proconsul Sergius Paulus who is described in the Bible as "an intelligent man." (Acts 13:7) Some

> rulers have courageously defended the rights of minorities, being guided by their God-given conscience even if they did not know Jehovah and his purposes. (Romans 2:14, 15) [72]

The Scriptural view of governments together with the Bible's clear command not to lie has been taken by most Witnesses in the manner in which it was intended. This is clearly seen from the reputation for honesty that most Witnesses enjoy throughout the world. For example,

- The German newspaper *Sindelfinger Zeitung* carried an article with the heading "The Most Honest People . . . Are Jehovah's Witnesses." It spoke about the matter of paying taxes, and concluded with the statement: "The Jehovah's Witnesses are recognizably the most honest people in the Federal Republic, says the Federal Ministry of Finance."[73]
- In Germany the newspaper *Münchner Merkur* said of Jehovah's Witnesses: "They are the most honest and the most punctual tax payers in the Federal Republic."
- In Italy the newspaper *La Stampa* observed: "They [Jehovah's Witnesses] are the most loyal citizens anyone could wish for: they do not dodge taxes or seek to evade inconvenient laws for their own profit."[74]
- *The Post* of Palm Beach, Florida, U.S.A., noted regarding Jehovah's Witnesses : "They pay their taxes. They are some of the most honest citizens in the Republic."[75]
- Dr. Bryan R. Wilson of Oxford University discussed this matter in a letter to the London *Times*, printed August 6, 1976. Among other things, he observed :

> "It is surely implicit in the concept of religious freedom that men should be free to abstain from involvements that they believe to conflict with their religion, as long as, in doing so, they do not interfere with the rights of others. Jehovah's Witnesses believe that to take part in elections, to sing national hymns, and to salute national flags would be to compromise their religious principles. Ought they not, then, be free to abstain? The Witnesses today are passive and respectful of authority, and their neutrality in politics ought not to be an excuse for intolerance and discrimination in any democratic society.
>
> "There is, indeed, a curious irony in the short-sightedness of some African governments with respect to sects of this kind.

> Independent observers have indicated that Jehovah's Witnesses are hard-working and often more conscientious and enterprising than the average among their fellow citizens. They are enjoined by their leaders to pay their taxes promptly, to refrain from violence, and to avoid giving offence. They are orderly, honest and sober. These values were of great importance in the economic and social development of Western society, and it would not be an exaggeration to say that Jehovah's Witnesses are among the most upright and diligent of the citizenry of African countries. Were the values that they endorse and by which they live so consistently more widely diffused in Africa, some of the worst social problems from which African countries suffer would be considerably mitigated."[76]

- In a publication entitled *Religion in America*, Professor Corbett states concerning Jehovah's Witnesses: "Witnesses have earned the reputation of being honest, courteous, and industrious."[77]

On occasion, non-Witness parents involved in custody cases will use terms such as "cult," "sect," or "Waco-like group" in an effort to undermine the credibility of the Witness parent. Such tactics are often means of distraction from the genuine issues because religion is rarely the basis of a separation or divorce. In fact, Professor Sam Rubin explains that religious issues raised in best interests hearings are "usually only symbolic representations of the underlying problems and differences that drive a relationship apart, and become a useful scapegoat for the frustration, anger, disappointment, and sense of failure that inevitably accompany the dissolution of a relationship."[78] Use of such terms is so inflammatory that Professor James T. Richardson suggests :

> The term 'cult' should also be disallowed in legal proceedings when involvement with an exotic religious group is an issue. Those defending actions against new religions, popularly referred to as cults, should consider making pretrial motions to suppress the use of that term in the courtroom. The term carries too much baggage to allow this casual use in proceedings designed to have rational judgments made about important issues[79].

3.1.3 Jehovah's Witnesses and Corporal Punishment

No one expects all Catholics or all Jews to have the same opinions about corporal punishment and certainly not all of Jehovah's Witnesses share the same views on this topic. However, the Watch Tower literature has always directed parents to consider Bible principles in the training of disciplining of their children. With the current surge in child abuse, governmental authorities, teachers, and parents are rightly concerned about the possibility of endangerment to a child as a result of parental religious practices. Jehovah's Witnesses accept the Bible as a practical and reliable tool for family life and therefore have considered the counsel at Proverbs 13:24, which refers to "the rod" of discipline.[80]

However, as well known as this Scripture is, it certainly is not the only verse that address the question of discipline and child rearing. *The Watchtower* emphasized a need to consider a broad range of Scriptures as a means to get the Bible's meaning of "the rod" of discipline clearly and properly in mind. For example, the article "Sacred Service with Your Power of Reason," which appeared in *The Watchtower*, explained :

> First, we must be ardent students of the Bible. God's inspired Word is "beneficial for teaching, for reproving, for setting things straight, for disciplining in righteousness." (2 Timothy 3:16) We should not always expect an answer to a problem to be spelled out in a single Bible verse. Rather, we may have to reason on several scriptures that shed light on a particular situation or problem. We will need to make a diligent search for God's thinking on the matter. (Proverbs 2:3-5) We also need understanding, for "a man of understanding is the one who acquires skillful direction." (Proverbs 1:5) An understanding person can separate the individual factors of a matter and then perceive their relationship to one another. As with a puzzle, he puts the pieces together so that he can see the whole picture.

For example, take the matter of parenting. Proverbs 13:24 says that the father who loves his son "does look for him with discipline." Taken by itself, this scripture could be misapplied to justify harsh, unrelenting punishment. Yet, Colossians 3:21 provides balancing admonition : "You fathers, do not be exasperating your children so that they do not become downhearted." Parents who use their power of reason and harmonize these principles will not resort to discipline that could be termed "abusive." They will treat their children with warmth, understanding, and dignity. (Ephesians 6:4) Thus, in

parenting or in any other matter involving Bible principles, we can develop our power of reason by weighing all related factors. In this way, we can perceive the "grammar" of Bible principles, what God's intent was and how to accomplish that.[81]

Earlier, *The Watchtower,*[82] had offered its readers a concise discussion of the topic and highlighted eight main points in connection with discipline – noting that physical discipline is not included :

"Parents, Teach Obedience by Disciplining in Righteousness"

1. Discipline on the basis of Scriptural laws and principles.

2. Discipline not simply by demanding obedience but by explaining why obedience is the course of wisdom.—Matthew 11:19b.

3. Discipline neither in anger nor with screaming.—Ephesians 4:31, 32.

4. Discipline within the warmth of a loving and caring relationship.—Colossians 3:21; 1 Thessalonians 2:7, 8; Hebrews 12:5-8.

5. Discipline children from infancy.—2 Timothy 3:14, 15.

6. Discipline repeatedly and with consistency.—Deuteronomy 6:6-9; 1 Thessalonians 2:11, 12.

7. Discipline yourself first and thus teach by example.—John 13:15; compare Matthew 23:2, 3.

8. Discipline with full reliance on Jehovah, petitioning his help in prayer.—Judges 13:8-10.

Thus, one can see that both in the Bible and in the Watch Tower literature the word "discipline" refers to teaching or instruction that is carried out in a loving and mild manner. Proper discipline is administered with genuine love, warmth, and feeling and conveys that the parent truly has the child's best interests at heart. Unfortunately though, many commonly connect discipline with child abuse. As *The Watchtower* explained when commenting on Proverbs 22:15: "No child should ever be subjected to cruel punishment. Physical violence has no place in the family that lives by the Bible. Neither does emotional violence—harsh words,

constant criticism, and biting sarcasm, all of which can crush a child's spirit."[83]

3.1.4 Social Adjustment

It is entirely relevant and proper that a trial judge should consider the proposed custodial parent's plan for education, recreational opportunities, and social development. However, when the determination of the child's best interest are influenced by strongly held religious convictions, the trier of facts runs the risk of imposing an "all-American" or "normal" standard of social activities that is both unconstitutional and improper. Two extreme cases highlight the danger of exaggerating the importance of social adjustment in the home of the potential custodial parent.

In 1991, the Superior Court of Pennsylvania reversed a lower court's decision changing custody from the father's home to the mother's home. When Carl Stolarick and Amy S. Novak divorced, they agreed to the custodial arrangement placing the two children in their father's home[84]. After the divorce the Stolarick children lived with their father in the family home and were enrolled in the Trinity Christian Academy, a private religious school. On appeal, the Superior Court explained :

> The trial court found no fault with the father's rearing of his children except for his fundamentalist Christian beliefs and his enrolling the children in a Christian school. With respect to this aspect of the case, the [lower] court opined : On the surface this seems like an ideal adaptation under the circumstances but it is the degree to which the father has pursued "life in the Lord" that has deprived the children of social and educational opportunities and has presented them with a single minded approach to life that is very restricted in view and allows for no spontaneity, artistic expression or individual development of rationale or logic or even just pursuit of ordinary curiosity. These children are being raised in a sterile world with very rigid precepts, with no allowance for difference of opinion, and no greater breadth than the doctrinaire limits of the religious beliefs.[85]

Examining the record, however, the appellate court found that :

> With respect to Carl's religious fervor, the testimony indicates that he has not pursued religion at the expense of neglecting his

children. Through Carl's testimony, as well as others attesting to his relationship with his children, we see that he has played an active role in the children's educational, recreational, and spiritual lives."[86]

Further, the evidence disclosed that the education they were receiving through the Trinity Christian Academy which was accredited by the American Association of Christian Schools, was full and adequate, including physical education, art, and music classes. In fact, the court concluded : "There is no evidence that would support the trial court's belief that the children would be deprived of social and educational opportunities and have been restricted in artistic expression or individual development of logic because of their attending a religious school."[87]

A very dramatic and disturbing illustration of the dangers created when the issue of social adjustment comes to the fore because of religious practices is the case of *Mendez v. Mendez.*[88] While the appellate opinion does not reveal much about the nature of the testimony at trial, a close look at the record reveals what Judge Baskin on dissent describes as "a demonstration of the experts' personal bias against the mother's religion." Judge Baskin explains :

"their disdain for the mother's religion induced them to speculate as to the possibility of harm to the child in the future even though no evidence of harm existed. The trial court was obviously persuaded by their less-than-objective considerations for removing the child from the custody of her natural mother, and its judgment should not stand."[89]

At the two-day trial, all of the experts and the guardian *ad litem* agreed that the four-year-old girl, Rebecca, was closely bonded to her mother. The guardian *ad litem* testified that if Rebecca ceased living with her mother, it would devastate her. The testimony from the three mental health experts suggested that the teachings of Jehovah's Witnesses were "not mainstream" and therefore inimical to the child's best interests. A psychologist speculated about the problems the four-year-old girl would face in the future if she were exposed to her mother's beliefs while attending public school :

[A]s a Jehovah's Witness she would have difficulty in dealing with the different values as they apply socially, in terms of school

> and religious holidays, which are not perceived as religious, exclusively by the children, such as Christmas and in terms of saluting the flag and things of that nature.[90]

A second psychologist was called to testify at the same trial and added his opinions based on the evaluation that :

> Living in this society, she needs to adapt herself to the mainstream culture. She's growing up and it is not a country of Jehovah's Witnesses. If the majority of the country was Jehovah's Witnesses, we would not have any problem, except for physically, but, as far as – I am not making the statement because she is a Jehovah's Witness *per se* but the philosophy of practicing the religion does not allow Rebecca to benefit and be safeguarded and living in this culture.[91]

Testimony of this nature is beyond the scope of psychological expertise. In allowing such testimony to affect the determination of a child's best interests, a court fails to acknowledge that, as one author put it :

> No one—and psychoanalysis creates no exception—can forecast just what experience, what events, what changes the child, or for that matter his adult custodian, will actually encounter. [Footnotes omitted] Nor can anyone predict in detail how the unfolding development of a child and his family will be reflected in the long run in the child's personality and character formation. Thus the law will not act in the child's interests but merely add to the uncertainties if it tries to do the impossible—guess the future and impose on the custodian special conditions for the child's care.[92]

Parents who are concerned about having their children exposed to minority religions frequently attempt to use the testimony of mental health experts to show that the child is suffering psychological harm as a result of exposure to the minority religion. When the mental health expert accepts that premise and concludes that any evidence of anxiety is related to exposure to the minority religion, the mental health expert opens himself for attack on cross-examination. The practitioner has the duty to carefully analyze the report and separate the mental health process methodology from the conclusions and recommendations. The methodology must

withstand the professional evaluation standards. For example, there are numerous psychological tests and inventories available to measure a child's psychological attachment to either parent. When the mental health expert fails to use these tests and relies entirely on the clinical evaluation method, the reliability/validity measurement of his or her conclusions is relatively low. Similarly, if the child evidences symptoms of psychological stress, without the use of objective testing it is almost impossible to make the connection between the anxiety in the child and the religious practice.

An objective analysis of the family dynamics usually reveals that communication between the parents has completely broken down, that one parent is rallying and campaigning for support even with his in-laws in order to turn the other parent's family against him or her, and the children have been reduced to pawns in an unfortunate game for control between the parents. Any of these factors together with litigation, recent divorce, or introduction of a new marriage partner between the parents can cause stress and anxiety in a child. Thus, many children of divorce suffer from anxiety and stress. However, the nexus between manifestation of these psychological conditions and exposure to the parents' religious training is rarely present.

Thus, whether the Supreme Court anticipated such abuses or not, it is understandable why it has explained that it is not the duty of the American trial court to homogenize or standardize American youth.[93] One social commentator explains it in this way :

> The state has no power to intervene against parental control simply to ensure that the child's development will be "normal." Likewise, in custody cases where unauthorized religious beliefs are involved, the court cannot constitutionally prefer one parent simply because that parents religious beliefs are more conducive to a child's "normal" development.

[W]here religious beliefs merely affect the normalcy of the home environment, particularly as regards civic duties and social opportunities, it would be unconstitutional to consider such beliefs as part of the best interests equation in deciding custody issues.[94]

Thus, the Alabama Civic Appellate Court concluded that "questions regarding the celebration of Christmas and birthdays or relating to participation in the electoral process or military service are not within the ambit of religious views which may reasonably be construed as endangering the mental or physical health of the child."[95]

Similarly the Supreme Court of Ohio has explained that "custody may not be denied to a parent solely because she will not encourage her child to salute the flag, celebrate holidays, or participate in extracurricular activities."[96] The Ohio Supreme Court explained :

> Appellee is concerned that the child will be socially ostracized and not adequately exposed to ideas other than those endorsed by Jehovah's Witnesses. We can sympathize with his parental concern for his child, but are concerned that the state not exceed its proper role in resolving what is essentially a dispute between the parents' religious beliefs. Although the listed activities are those that most people may consider important to the socialization of children, we need to separate the value judgments implicit in the so-called norm from the actual harm caused by these practices. Even if we accept the premise that Jennifer will actually forbid Bobby to celebrate holidays, be involved in extracurricular activities, or salute the flag, these practices do not appear to directly endanger the child's physical or mental health. A showing that a child's mental health will be adversely affected requires more than proof that a child will not share in all of the beliefs or social activities of the majority of his or her peers. A child's social adjustment is very difficult to measure, and the relative importance of various social activities is an extremely subjective matter. For these reasons, a court must base its decision that a particular religious practice will harm the mental health of a child on more than the fact that the child will not participate in certain social activities.[97]

The Supreme Court of Ohio assumed that Jennifer would not allow her son to participate in these holidays. It explained in footnote 4 :

> This very well may be an assumption that we are not entitled to make. Jennifer testified that she was willing to allow Bobby to choose his own religion when he reached a suitable age. She also testified that she would not encourage him to celebrate holidays or salute the flag, and wished to explain to him why she did not do these things. She further testified that Bobby would be allowed to form friendships with other children so long as they were not a bad influence on him and that he could participate in suitable extracurricular activities. The evidence that she would do

otherwise is based on the testimony of other Jehovah's Witnesses and religious publications.[98]

In 1995, Watch Tower published the brochure, *Jehovah's Witnesses and Education.* Its introduction explains :

> This brochure does not seek to impose the Witnesses' religious views on you or on your students. Our desire is simply to inform you about the principles and beliefs that some of your students are being taught by their parents so that you will find it easier both to understand Witness children and to work with them. Of course, what children are taught and what they do may not always harmonize, as each child is learning to develop his own conscience.

In the same brochure, under the sub-heading "Religiously Divided Households," the Watch Tower explains :

> In some families, only one parent is a Witness of Jehovah. In such a situation, the Witness parent is encouraged to recognize the right of the non-Witness parent also to instruct the children according to his or her religious convictions. Children exposed to different religious views experience few, if any, ill effects. In practice, all children have to decide what religion they will follow. Naturally, not all youths choose to follow the religious principles of their parents, whether Jehovah's Witnesses or not.[99]

This attitude is similarly reflected in earlier publications. For example, the *Awake!* Of October 22, 1988, specifically addressed to divorced parents, explained :

> Never forget that the child has a right to receive input from both parents. Therefore, it would be shortsighted for one parent to demand prohibitions on a child's attendance at or participation in the religious, cultural, or social activities of the other parent to take an absolute position on a child's school and extracurricular activities, association, recreation, or post-secondary education without due consideration for the other parent's input and the child's individual choices.[100]

Thus, when Jennifer Pater testified that she would allow her son Bobby to make his own decision about his activities in school and religious affiliation,[101] her testimony was completely consistent with Watch Tower literature as the *Jehovah's Witnesses and Education* brochure explains: "No two children are exactly alike. Therefore, you may reasonably expect some variations in the decisions that young Witnesses or other students make when it comes to certain activities and assignments at school. We trust that you also subscribe to the principle of freedom of conscience."[102] Closely connected to social adjustment is the concern for potential harm in the well-known religious practice of Jehovah's Witnesses to carry their gospel message from door-to-door. Jehovah's Witnesses take Jesus Christ's command to preach the gospel seriously. However, the parents on their own initiative decide when and how their family will share in this work.

3.1.5 Alienation Of The Disfellowshipped Parent

Several states' legislatures require that while both parents have the responsibility to encourage a meaningful relationship between the children and the other parent, this obligation particularly falls on the custodial parent.[103]) Thus, when one parent's religious practices teach that the other parent should be shunned or avoided because he left the organization or has been disfellowshipped, expelled, or excommunicated, then the impact of the proposed custodian's religious practices may become proper consideration for the court. An extreme example is found in a Nebraska case, *Burnham v. Burnham*.[104] The mother belonged to the Trinidine Church of the Fatma Crusaders that considered itself to be the true Catholic Church. Evidence indicated that the Trinidine Catholic Church believed that Jews and Communists had entered into a "master plot" to gain control of the world. The mother testified that if her daughter refused to accept the tenets of the Trinidine Catholic Church that she would break off all communication with her regardless of her age. The mother also viewed her daughter as being illegitimate because the parents were married at the St. Bernard's Catholic Church and not at the Trinidine Catholic Church. At trial, the court awarded custody of the couple's only child, a five-year-old daughter, to the mother. On appeal, the Supreme Court of Nebraska reversed that decision with instructions and remanded the case. The Supreme Court of Nebraska explained :

> We believe that the following beliefs may have an adverse impact on Jamie : (1) the belief that she is illegitimate; (2) the willingness of Caroline to cut Jamie out of her life if she disobeys the rules of the Trinidine Church; and (3) the racist's views held by Caroline and, apparently, by her church. Although by holding these views, Caroline has not disqualified herself from being a fit and proper person to have custody of her child. We must take all factors into consideration in determining what is in Jamie's best interests. We also note that Caroline's desire to educate Jaime in the Trinidine Church in Coeur d'Alene, Idaho, would interfere with the father's rights of visitation. There is ample evidence that the father was very close to his daughter. He has the ability and desire to take care of here in the family home. He has stated that he will look after her moral and religious training and enroll her in a Sunday school or something equivalent.
>
> We feel that Caroline's religious beliefs, if continued in regular practice, which she indicates will be the case, will have a deleterious effect not only on the relationship between a father and his daughter but upon the well-being of the child herself.[105]

Based on their understanding of the Scriptures, Jehovah's Witnesses practice disfellowshipping. The grounds for disfellowshipping are neither trivial nor capricious and are outlined in the Scriptures as described in 1 Corinthians chapter 6, verses 9 and 10 :

> What! Do YOU not know that unrighteous persons will not inherit God's kingdom? Do not be misled. Neither fornicators, nor idolaters, nor adulterers, nor men kept for unnatural purposes, nor men who lie with men, nor thieves, nor greedy persons, nor drunkards, nor revilers, nor extortioners will inherit God's kingdom.[106]

One-time offenses are rarely grounds for disfellowshipping. As *Awake!* recently explained : "[i]t is true that committing a serious sin makes one liable to disfellowshipping, but not automatically. Disfellowshipping is for those who refuse to repent—who stubbornly refuse to change."[107] According to the Watch Tower Society, each year less than one percent of the members are disfellowshipped.[108] Within the same time period, up to forty percent of the number of those disfellowshipped are reinstated,

returning to active service and normal involvement in the congregation.[109] Immorality and use of tobacco products are the most common grounds for disfellowshipping.[110]

What is the status of the disfellowshipped person? The act of disfellowshipping severs the disfellowshipped person's spiritual ties to the congregation. Thus, the disfellowshipped person's privileges in the congregation as an active Witness are interrupted. That change in congregational status, however, does not affect ordinary family interactions.[111] When a disfellowshipped Witness and an active Witness are involved in a child custody dispute, the disfellowshipped Witness may attempt to use his severed relationship to the congregation as evidence that the active Witness will not encourage a meaningful relationship between the disfellowshipped witness and the minor child.

Watch Tower literature has consistently made it clear that the filial responsibility of the children to their parents remains intact. In the event that the disfellowshipped parent was aged or otherwise incapacitated, it would be the obligation of the child to provide all necessary care and provisions to accommodate their disfellowshipped parent.[112] In the case of divorcing parents, one parent's disfellowshipped status is not a bar to the children's continued close and warm relationship with the disfellowshipped parent. As the *Awake*! of December 8, 1997, explained :

> What, though, if one of the parents is disfellowshipped? Should the Christian parent make the child available for visitation? The disfellowshipping process of the congregation only alters the spiritual relationship between the individual and the Christian congregation. In fact, it severs the spiritual bonds. But the parent-child relationships remains intact. The custodial parent must respect the disfellowhipped parent's visitation rights.[113]

3.1.6 Alienation of The Non-Witness Parent

What if the divorce occurs in a religiously mixed household? Will the fact that one parent is a non-Witness be a hindrance to the child's continued relationship after divorce? The answer should be no as the *Awake!*, October 22, 1988, encourages readers :

> Recognize your child's emotional ties to both parents. Each parent must respect and honor the other parent's position in the

> child's life for the healthy development of the child's personality. Try to see positive areas where both of you can contribute to the child's welfare. Do not conclude that everything an ex-mate does is automatically wrong. It is "the duty of each to enhance the image of the other parent in the eyes and mind of the child, or at least to avoid criticism which might impair it," explained one Texas court. This requires parents to minimize their personal conflict to make room for the child's needs.[114]

That same edition of the *Awake*! emphasized a need for Witness and non-Witness parents to respect the right of the child to enjoy cultural and religious influences from both :

> Never forget that the child has a right to receive input from both parents. Therefore, it would be shortsighted for one parent to demand prohibitions on a child's attendance at or participation in the religious, cultural, or social activities of the other parent when the child is with that one. Likewise, it would be inappropriate for a parent to take an absolute position on a child's school and extracurricular activities, association, recreation or post-secondary education without due consideration for the other parent's input and the child's individual choices.[115]

From time to time, the non-Witness parent will argue that because Jehovah's Witnesses believe that they hold the only true religion, the non-Witness parent's point of view on immorality, spiritual qualities, or other religious views will not be taken seriously. A review of the literature indicates that this line of reasoning is not likely to produce evidence to aid the finder of fact to determine who is the better-fit custodial parent.

The Bible book of Ephesians indicates that there is "one faith."[116] It is reasonable to conclude that any Bible-reading denomination relying on that verse would believe that his or her religion is a true religion. The concept of salvation of the righteous and the destruction of the wicked is a theme common to all Christian denominations, and it is in fact certainly not limited to Christianity. While the Watch Tower literature has never held back in condemning religious practices that are contrary to the Bible's teachings, it makes it abundantly clear that Jesus' words to love our neighbors as ourselves applies to all and not simply to those related to them in faith. As *The Watchtower* of August 1, 1993, page 19, explains : "Our becoming Christians should not mean that we become unfriendly or

unneighborly. Jesus counseled us to manifest genuine interest in others." In harmony with this, the *Awake!* Explained :

> "It would be wrong to assume that a person is indecent or immoral simply because he is not acquainted with Bible truths. Circumstances and people vary. Hence, each Christian must decide to what degree he will regulate his contact with unbelievers. However, it would be unnecessary and unscriptural for a Christian to isolate himself physically as Anchorites did or to feel superior as the Pharisees did. In the Bible the term "unbeliever" is at time used to designate non-Christians. However, there is no evidence that the word "unbeliever" was used as an official designation or label. Certainly, it was not used to belittle or denigrate non-Christians, as this would be contrary to Bible principles. Jehovah's Witnesses today avoid being harsh or arrogant toward unbelievers. They consider it rude to label non-Witness relatives or neighbors with derogatory terms. They follow Bible counsel, which states : "A slave of the Lord . . . needs to be gentle toward all."[117]

Some have expressed concern that the child exposed to two different belief systems will be confused and thereby harmed. There is no empirical evidence to justify this assumption. There are a variety of studies available that show that exposure to both parents' religious beliefs can be helpful and stimulating. There is an interesting body of writing addressed to parents who simultaneously expose their children to Christian and Jewish systems. Author Lee F. Gruzen gives the following advice :

> Accept the fact that differences are part of the Jewish/Christian experience. . . . Be patient. . . . Enjoy what's common and shared. . . . Enjoy the diversity. . . .
>
> Here are [four] recommendations that have a special application to today's interfaith parents raising Jewish/Christian children.
>
> 1. *Be clear and honest from the start*. . . . 2. *Offer children a fair, informed exposure to both faiths, no matter what religious choices the family has made*. . . . 3. *Be prepared for the realities of organized religion*. . . . 4. Last of all, *free them for their own choices.*[118]

On the issue of diversity, Judy Petsonk and Jim Remsen, authors of *The Intermarriage Handbook: A Guide for Jews and Christians* (1988), encourage their readers to affirm their children's religious/cultural duality and note the importance of full exposure to both religious and cultural differences in the family. These authors agree that the worst message we can send children of a mixed faith background is that the religious faith of one parent is bad or unimportant. Another author stated:

> Children are confused when parents live lives of denial, confusion, secrecy, and avoidance of religious issues. When parents are open, honest, clear about their own beliefs, values, and patterns of celebration, children grow up with the kind of security and sense of self-worth in the religious realm that is so crucial to the development of their overall self-esteem and knowledge of their place in the world.[119]

Similar statements have been expressed by the judiciary in different states. For example, the Supreme Court of Massachusetts noted :

> The law, however, tolerates and even encourages up to a point the child's exposure to the religious influences of both parents although they are divided in their faiths. This, we think, is because the law sees a value in "frequent and continuing contact" of the child with both its parents and thus contact with the parents' separate religious preferences. There may also be a value in letting the child see, even at an early age, the religious models between which it is likely to be led to choose in later life. And it is suggested, sometimes, that a diversity of religious experience is itself a sound stimulant for a child. See *Smith v. Smith*, 90 Ariz. 190, 194, 367 P.2d 230 (1961) (*en banc*).[120]

A Pennsylvania appellate court made a similar expression when it observed :

> It is important for courts to impose restrictions sparingly. Courts ought not to impose restrictions, which unnecessarily shield children from the true nature of their parents unless it can be shown that some detrimental impact will flow from the specific behavior of the parent. The process of children's maturation requires that they view and evaluate their parents in the bright light of reality.

> Children who learn their parents' weaknesses and strengths may be able better to shape lifelong relationships with them.[121]

CONCLUSION

All too often, as the cases mentioned in this article indicate, while attempting to serve the child's best interests, a trial judge endangers the parents' religious freedom. Not only that, but little regard is given to the rights of the child to receive religious training from both parents, or to exercise his or her own developing spirituality and religious conscience. What is required to protect these interests? As these cases bear out, unnecessary infringement is very often the result of insufficient fact finding and/or reliance on generalization and stereotype. Thus, while some custody evaluators, lawyers, and judges are willing to assume that participation in a non-traditional religious belief system is harmful to the child and may interfere with the child's socialization to the dominant culture, there is no empirical data to support these conclusions. As one New York trial judge pointed out : "In a pluralistic society, such as the American Experience, it must be anticipated and accepted that there will be divergent views of what is cause for celebration and how such celebration shall be carried on...Cultural accommodation has been our strength."[122]

In addition to these problems with fact-finding, there are often exterior reasons why members of minority religions are likely to feel the displeasure of the dominant culture in a child custody case. Testimony from clinical psychologists as custody evaluators has come to be an acceptable feature in a child custody case. However, when psychologists go beyond their realm of expertise and begin to speculate about potential harm and impact on the child, then adverse psychological testimony is improperly considered as justification for restrictions on visitation or access of the non-custodial parent who is an adherent to a minority faith. When evaluators delve into the reasons for particular belief systems or seek justifications for religious values, they may not only alienate the minority adherent from the evaluation process, but also reduce the likelihood of an open and meaningful exchange so necessary to a competent evaluation.

A second feature that is often present in these cases is the presence of adverse religious testimony from either former Witnesses or members of the clergy.[123] The likelihood that such testimony will produce relevant,

probative, and objective testimony is so remote that it ought to be excluded in all but the rarest cases. As Bryan Wilson pointed out, the evidence proffered by ex-members should be used with circumspection. Commenting on their reasons for this involvement, Wilson states that often an individual will "rehearse an 'atrocity story' to explain how, by manipulation, trickery, coercion, or deceit, he was induced to join or to remain within an organization he now forswears and condemns."[124] The motivation offered in such testimony is rarely to serve the best interests of the child, but to serve the religious interests of a contesting parent.

Just as there are relatively few sociological studies about Jehovah's Witnesses,[125] there are relatively few studies about the impact of dual-religious exposure in a child. With so little information available, it is clear that there is a need for more independent and objective research on these critical issues to assist the finders of fact with the necessary resources to confidently determine the best interests of all involved in custody disputes. As we have seen, making such a determination is rarely easy. Leaving personal biases out, being careful to respect the constitutional rights of all involved, and weighing only probative and relevant evidence regarding parental fitness will ensure that, to the full extent possible, the children's best interests will be genuinely served.

NOTES

[1]. The author wishes to express appreciation for the research and production assistance of Donna Bisbee and Miriam Grozescu

[2]. Leo Pfeffer, *Religion in The Upbringing of Children*, 35 BOSTON U.L.R. 333, 339 (1955).

[3]. STEVEN C. REUBEN, RAISING JEWISH CHILDREN IN A CONTEMPORARY WORLD 111. (1992). "[I]n most major centers of Jewish life today, Jews marry non-Jews at a rate of 50 percent or more."; Eileen Ogintz, *A Marriage of Two Faiths*, LADIES HOME J. 22, 26 (Dec. 1988) reported that the National Conference of Catholic Bishops estimated that 40% of American Catholics marry outside their faith.

[4]. *Religion in America* (1992-1993) published by The Princeton Research Center, notes an upward swing in church attendance and confidence in organized religion. In particular, "baby boomers," those now between the ages of 26 and 45 (43% of the United States population), want their children to receive a religious education. Likewise the study indicates that about one in four adults (23.5%) has changed or contemplates changing from the religion in which they were raised.

[5]. THE NEW ENCYCLOPÆDIA BRITANNICA Vol. 29, 193 (1992).

[6]. The author has selected the expression "new religious movements" rather than the more pejorative terms such as "sects" or cults" often associated with minority faiths.

[7]. James T. Richardson, *Freedom of Religion and the 'Cult' Controversy*, 4 CHRISTIAN RESEARCH ASS. BUL., No. 3, September 1994, at 1 :

Freedom of religion is a concept of fairly recent vintage. The idea is generally believed to have evolved as part of the Enlightenment thought, in part because of animosity toward the Catholic Church because of its involvement in religious persecution and efforts to suppress the development of secular knowledge. Freedom of religion has widespread currency today, at least receiving considerable "lip service" from many religious and political leaders.

[8]. *Cantwell v. State of Connecticut*, 310 U.S. 296 (1940).

[9]. *Gibson v. United States*, 329 U.S. 338 (1946); *Estep v. United States*, 327 U.S. 114. (1946); *Dickinson v. United States*, 346 U.S. 389 (1953); *Gonzales v. United States*, 348 U.S. 407 (1955); Simmons v. United States, 348 U.S. 397 (1955); *Sicurella v. United States*, 348 U.S. 385 (1955).

[10]. *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 63 S. Ct. 1178 (1943).

[11]. *See e.g.*, *Saumur v. The City of Quebec*, (1953) SCR 299: This case defined free exercise of religious rights in Canada before the incorporation of the Charter of Rights.; *Lehrman v. Lehrman*, C.A. (T.A.) 2266/93 (1993): This case defined the religious rights of minors under UN Convention on Right of Child in Israel.

[12]. Annotation, *Religion as Factor in Child Custody and Visitation Cases*, 22 A.L.R.4th 971 (1983 & Supp. 1993) :

This annotation discusses general principles to be considered by an attorney handling a child custody or visitation case when religion is made an issue. Section 9 contains a discussion of cases in which one parent is one of Jehovah's Witnesses, considered a minority religion. Section 8 includes a discussion of cases in which one parent was disqualified as custodian because of his or her religious beliefs and practices. These cases involve members of religions such as the Tridentine faith, Christian Scientists, Jehovah's Witnesses; which are religions which are often also characterized as cults, sects, or non-mainstream.

[13]. Convention on the Rights of the Child, Article III, Section 1, UN Document A/RES/44/25, (12 December 1989).

[14]. N.Y. DOM. REL. § LAW 240 (1986)

[15]. MICH. COMP. LAWS ANN. § 722.23 (West Supp. 1990)

[16]. WISC. MAR. AND FAM. LAW § 767.24 (West Supp. 1997) (5) provides : The court shall consider the following factors in making its determination : (d) The child's adjustment to the home, school, religion and community ; *See e.g.*, ALASKA, MAR. AND DOM. REL. LAW § 25.24.150 © (West Supp. 1997) ; MINN. PUB. WEL. § 260.181 Subd. 3 (b).

17. *See, i.e., Pater v. Pater*, 588 N.E.2d 794 (Ohio 1992); *Zummo v. Zummo*, 574 A.2d 1130 (Pa. Super. 1990); *Osier v. Osier*, 410 A.2d 1027 (Maine 1980); *Munoz v. Munoz*, 489 P.2d 1133 (Wash. 1971).

18. MARY ANN MASON, FROM FATHER'S PROPERTY TO CHILDREN'S RIGHTS: THE HISTORY OF CHILD CUSTODY IN THE UNITED STATES 6 (1994).

19. ARIZ. REV. STAT. ANN. § 25-338(A) (1991); COLO. REV. STAT. § 14-10-130 (1987); GA. CODE ANN. § 19-9-6(4) (1991); ILL. COMP. STAT. ANN. 43 § 5/608(a) (1993); MO. ANN STAT. § 452.405 (1); PA. CONS. STAT. ANN. § 5302 (1991); TEX. FAM. CODE ANN. § 12.01, § 14.02 (West Supp. 1993); WASH. REV. CODE § 26.09.184(4a), § 26.20.170 (West Supp. 1993); WIS. STATE. ANN. § 767.001(2) (a) (2m) (West 1993).

20. Shepherd, *Solomon's Sword: Adjudication of Child Custody Questions*, 8 U. RICH L. REV. 151, 178 (1974): Courts must draw on the knowledge and research of other disciplines such as psychiatry, psychology, ... sociology, social work, ... so that those fields may demonstrate the extent to which various characteristics of the child and the custodial claimants are significant in achieving the objective of a healthy parent-child relationship.

21. JOSEPH GOLDSTEIN ET AL., BEYOND THE BEST INTEREST OF THE CHILD 37-38 (1979).

22. *Obey v. Degling*, 337 N.E.2d 601, 602 (1975); *Fountain v. Fountain*, 442 N.Y.S.2d. 604, *aff'd*, 432 N.E.2d 596 (1982).

23. IND. FAM. LAW ANN. § 31-17-2-8 (West's 1998): In determining the best interests of the child,. . . [t]he court shall consider all relevant factors including the following: (3) the wishes of the child, with more consideration given to the child's wishes if the child is at least fourteen (14) years of age. *See e.g.* MINN. ANN. PUB. WEL. § 257.025 (a)(2).; N.M. STAT. ANN. § 40-4-9 (B.).

24. 5 Am. Jur. 2d § 662 (1995) :

The findings made in the lower court generally may not be set aside on appeal unless they are clearly erroneous, or are unsupported by substantial evidence, or are indisputably wrong, or so inherently impossible or improbable as not entitled to belief, or unless the evidence plainly and decidedly preponderates against them.

25. *Wisconsin v. Yoder*, 406 U.S. 205, 92 S. Ct. 1526 (1972); *Gardini v. Moyer*, 575 N.E.2d 423 (Ohio 1991).

26. *Watson v. Jones*, 80 U.S. (13 Wall.) 679, 728 (1872).

27. *Cantwell v. State of Connecticut*, 310 U.S. 296 (1940).

28. 42 U.S.C.A. § 2000bb, ruled unconstitutional 1997.

29. *Sherbert v. Verner*, 374 U.S. 398, 83 S.Ct. 1790 (1963).

30. *City of Boerne v. Flores*, 117 S.Ct. 2157, 138 L.Ed.2d 624 (1997).

31. *Employment Div., Dept. of Human Res. v. Smith*, 494 U.S. 872, 110 S.Ct. 1595 (1990).

32. *Id.* at 1602.

33. *Birch v. Birch*, 11 Ohio St. 3d 85, 463 N.E.2d 1254 (1984).

34. *Robertson v. Robertson*, 575 P.2d 1092 (Wash. Ct. App. 1978).

35. *Wisconsin v. Yoder*, 406 U.S. 205, 92 S. Ct. 1526 (1972).

36. *Robertson v. Robertson, supra* note 34.

37. *Young v. Young*, (1989), 24 R.F.L. (3d) 193. (1990), 50 B.C.L.R. (2d) 1, 75, 38. D.L.R. (4th) *H v. F* 10 FRNZ 486 (1993); *S.L. v. S.C.* [St-Laurent](1997) 3 S.C.R. 1003.

38. WATCH TOWER BIBLE AND TRACT SOCIETY OF PENNSYLVANIA, JEHOVAH'S WITNESSES PROCLAIMERES OF GOD'S KINGDOM 152-155 (1993) [hereinafter *Proclaimers*].

39. *Isaiah* 43:12 (New World Translation) : "So YOU are my witnesses," is the utterance of Jehovah, "and I am God".

40. Jehovah is the English transliteration of the Hebrew Tetragrammaton that appears more than 7,000 times in the Hebrew and Greek Scriptures.

41. *Proclaimers*, at 229, 576.

42. *Proclaimers*, at 683, 724.

43. WATCH TOWER BIBLE AND TRACT SOCIETY OF PENNSYLVANIA, 1998 YEARBOOK OF JEHOVAH'S WITNESSES 31 (1997). Reports average active members at 5,353,078 and peak attendance at annual Celebration of the Lord's Death at 14, 322,226.

44. CHRISTINE KING, THE NAZI STATE AND THE NEW RELIGIONS 147-179 (1982).

45. WILLIAM KAPLAN, STATE AND SALVATION—JEHOVAH'S WITNESSES AND THEIR FIGHT FOR CIVIL RIGHTS 52-91 (1989).

46. WATCH TOWER BIBLE AND TRACT SOCIETY OF PENNSYLVANIA, 1985 YEARBOOK OF JEHOVAH'S WITNESSES 181-187 (1984).

47. WATCH TOWER BIBLE AND TRACT SOCIETY OF PENNSYLVANIA, 1983 YEARBOOK OF JEHOVAH'S WITNESSES 67-91 (1982).

48. *Singapore—The Right of Association Challenged*, HUMAN RIGHTS WITHOUT FRONTIERS, Volume 7, 1996 at 9-11.

49. *Are Jehovah's Witnesses a Cult?*, THE WATCHTOWER, Feb. 15, 1994 at 5 :

> A government official of the city of St. Petersburg, Russia, explained: "Jehovah's Witnesses were presented to us as some kind of underground sect sitting in the darkness and slaughtering children and killing themselves." However, the people of Russia have recently become better acquainted with the true nature of the Witnesses. After working with Jehovah's Witnesses in connection with an international convention, the same official observed: "Now I see normal, smiling people, even better than many people I know. They are peaceful and calm, and they love one another very much." He added: "I really do not understand why people tell such lies about them."

Id. at 6 :

"I do not belong to Jehovah's Witnesses," wrote a newsman in the Czech Republic. Yet he added: "It is obvious that they [Jehovah's Witnesses] have tremendous moral strength. . . . They recognize governmental authorities but believe that only God's

Kingdom is capable of solving all human problems. But watch it—they are not fanatics. They are people who are absorbed in humanity."

See e.g., *From our Readers—Judges and Doctors Respond*AWAKE!, May 8, 1986 at 26-29.

[50]. *Matthew* 28:19, 20. (New World Translation).

[51]. William Shepard McAninch, *"A Catalyst for the Evolution of Constitutional Law: Jehovah's Witnesses and the Supreme Court,"* 55 UNIVERSITY OF CINCINNATI LAW REVIEW No. 4, page 998 (1987).

[52]. *Proclaimers* at 678-680.

[53]. *In the Interest of Marcos Reyes,* Index No. 6936-C, in the District Court of Taylor County, TX, 326th Judicial District, held on February 13-17, 1989. Oral deposition of Gerald Bergman on December 8, 1988 at 90.

[54]. *Pater v. Pater,* 63 Ohio St. 3d 393, 588 N.E.2d 794 (1972).

[55]. *Id.* at 800.

[56]. *Petersen v. Rodgers,* 433 S.E.2d 770 (NC Ct. App. 1993), reversed on appeal on other grounds 445 S.E.2d 901 (N.C. 1994).

[57]. *Daubert v. Merrell Dow Pharmaceuticals* 509 U.S. 579, 113 S.Ct. 2786; See, e.g. FED. R. EVID. § 403.1 which provides: Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

[58]. *Matthew* 19:18,19 (Jerusalem Bible): He said: "Which?" "These": Jesus replied, "You must not kill. You must not commit adultery. You must not steal. You must not bring false witness. Honor your father and mother, and: you must love you neighbor as yourself."; *James* 3:14 (Jerusalem Bible): "But if at heart you have the bitterness of jealousy, or a self-seeking ambition, never make any claims for yourself or cover up the truth with lies."

[59]. *"Soundness of Mind" as the End Draws Close,* THE WATCHTOWER, Aug. 15, 1997 at 21:

"Parents are also concerned about the ability of their children to support themselves financially. So give your children guidance, help them to choose appropriate school subjects, and discuss with them whether it is wise to pursue any supplementary education or not. Such decisions are a family responsibility, and others should not criticize the course taken."

[60]. WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, FAMILY CARE AND MEDICAL MANAGEMENT FOR JEHOVAH'S WITNESSES, (1992) at 3 under § *Beliefs.*

[61]. *Fear of Aids is Only One Reason Some Doctors Are Calling For Bloodless Surgery,* TIME MAGAZINE, Fall, 1997 at 76 :

"Even when donor blood is deemed safe, if blood of the wrong group is transfused by mistake, recipients may suffer kidney failure, shock and clotting difficulties. Differences between donor and recipient platelets, white cells and plasma proteins can also cause reactions. Even donating one's own blood for use during surgery can be hazardous if blood is mishan-

dled. Other factors make bloodless surgery increasingly attractive. Transfusions can suppress the immune system, for example, leaving a patient open to infection, slower healing and a longer recovery time."

[62]. *Acts* 15:29 (King James): That ye abstain from meats offered to idols, and from blood, and from things strangled, and from fornication: from which if ye keep yourselves, ye shall do well. Fare ye well.

[63]. *Garrett v. Garrett*, 3 Neb. App. 384, 527 N.W.2d 213 (1995).

[64]. Id. at 395; *See e.g.*, *Pater v. Pater*, 63 Ohio St. 3rd 393, 588 N.E.2d 794 (1992); *Johnson v. Johnson*, 564 P.2d 71 (Alaska 1977), *cert. denied* 434 U.S. 1048 (1978); *compare Levitsky v. Levitsky*, 231 Md. 388, 190 A.2d 621 (1963).

[65]. Mann, et. al, *Changes in Transfusion Practices in Burn Patients*, 37 J. TRAUMA 220, 221 (1994) : "The threat of transmission of hepatitis and AIDS has become a sobering reality, and serious attention to risks and benefits has become part of the decision-making process when ordering blood products. Similarly, recent evidence associates immunosuppression and postoperative infection with the quantity of banked blood that patients receive. ... Recent evidence strongly suggests that blood transfusion correlates positively and independently with the risk of infection in several groups of patients. ... The immunosuppresive effects of blood transfusion are now becoming known. ... A significant association has been found between perioperative blood transfusion and early recurrence of colorectal cancer. ... Finally, the risk of infectious disease transmission through blood transfusions remains a critical issue. The risk of transmission of HIV-1 and HTLV-I/II by transfusion of seronegative blood is now estimated to be 1 in 60,000 units of blood. ... The risk of contracting viral hepatitis is estimated at 1%-3% of transfusion recipients. "

[66] *Report on the Presidential Commission on Human Immunodeficiency Virus Epidemic*, June, 1988, p. 79.

[67]. Watch Tower Bible and Tract Society of Pennsylvania, *Reasoning from the Scriptures*, (Watchtower Bible and Tract Society of New York, Inc. 1989), page 199.

[68]. *Redman, et. al. v. Watch Tower Bible and Tract Society of Pennsylvania*, et al., No. 91-WD-071, 1992 WL 193533 (Ohio App. 6th Dist. Aug. 14, 1992), *cert granted*, 604 N.E.2d 168 (Ohio Dec. 18,1992) (No. 92-2041).

[69]. *Id.* at 6.

[70]. *Questions From Readers*, THE WATCHTOWER, June 1, 1960 at 352.

[71]. *Subjection to "Superior Authorities"—Why?* THE WATCHTOWER, Nov. 15, 1962 at 685: When Christians subject themselves to existing visible, earthly, human governments or "superior authorities,". . . they are obeying God's command.

[72]. *In The World, but No Part of It*, THE WATCHTOWER, Nov. 1, 1997 at 16.

[73]. *In What Ways Can We Become Imitators of God?*, THE WATCHTOWER, Mar. 1, 1974 at 152.

[74]. *Paying Back Caesar's Things to Caesar* , THE WATCHTOWER, May 1, 1996 at 17.

[75]. *Honor Men of All Sorts*, THE WATCHTOWER, Feb. 1, 1991 at 21.

[76]. *Freedom of Worship—When Should It Be Granted?*, AWAKE!, Feb. 8, 1977 at 9.

[77]. JULIA M. CORBETT, RELIGION IN AMERICA 152-153 (3d Ed. 1996).

[78]. SAM RUBIN, BUT HOW WILL YOU RAISE THE CHILDREN? 228-229 (1987); See also Jason S. Marks, *The Solomonic Paradox Revisited: Should Custody Proceedings Determine a Child's Religion?*, 33 SANTA CLARA L. REV. 313-339 (1993).

[79]. James T. Richardson, *Definition of Cults: From Sociological-Technical to Popular-Negative*, 34 REVIEW OF RELIGIOUS RESEARCH 348, 355 (June 1993).

[80]. (New World Translation) "The one holding back his rod is hating his son, but the one loving him is he that does look for him with discipline."

[81]. *Sacred Service With Your Power of Reason*, THE WATCHTOWER, June 15, 1995, at 19-29.

[82]. *Learn Obedience by Accepting Discipline*, THE WATCHTOWER, Oct. 1, 1992, at 29.

[83]. *A Book From God*, THE WATCHTOWER, Apr. 1, 1998 at 18.

[84]. *Stolarick v. Novak*, 584 A.2d 1034 (Pa. Super. Ct. 1991).

[85]. *Id.* at 1036.

[86]. *Id.*

[87]. *Id.* at 1037.

[88]. 527 So.2d 820 (Fla. Dist. Ct. App. 1987),(per curiam), *cert denied*, 485 U.S. 942, *reh'g denied*, 485 U.S. 1030 (1988).

[89]. *Id.* at 824.

[90]. *See* Record at 9, *Mendez* (No. 84-34049 FC).

[91]. See Record at 56, *Mendez* (No. 84-34049 FC).

[92]. J. GOLDSTEIN, ET.AL., BEYOND THE BEST INTERESTS OF THE CHILD 51-52 (1979).

[93]. *Pierce v. Society of the Sisters of the Holy Names of Jesus and Mary*, 268 U.S. 510, 535, 45 S.Ct. 571, 573 (1925). The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.

[94]. R. Collin Mangrum, *Exclusive Reliance on Best Interests May Be Unconstitutional: Religion as a Factor in Child Custody Cases*, 15 CREIGHTON L. REV. 25, 72-73 (1981)

[95]. *Clift v. Clift*, 346 So.2d 429 (Ala. Civ. App. 1977).

[96]. *Pater v. Pater*, *supra* note 15 at 797.

[97]. *Id.* at 799-800.

[98]. *Id.* at 799

[99]. WATCHTOWER BIBLE AND TRACT SOCIETY OF PENNSYLVANIA, *Jehovah's Witnesses and Education*, 24, 25 (1995).

[100]. *Acting in Your Child's Best Interests*, AWAKE!, October 22, 1988, at 12.

[101]. *Pater v. Pater*, *supra* note 15, footnote 4 at 799.

[102]. Id. at 25.

[103]. COL. DOM. MAT. CODE. § 14-10-124 (1997) (1.5) In determining the best interests of the child, the court shall consider all relevant factors, including: (f) The ability of the custodian to encourage the sharing of love, affection, and contact between the child and the noncustodial party.; FLA. STAT. ANN. § 61.13 (2)(b) It is the public policy of this state to assure that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and to encourage parents to share the rights and responsibilities, and joys, of childrearing.; ILL. COM. STAT. § 750 5/602 (a)(8) The court shall consider all relevant factors including: the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child. *See e.g. In re Marriage of Dobey*, 629 N.E.2d 812, 815 (Ill. App. 4 Dist., 1994) [T]he custodial parent has the duty to strengthen and nurture in every way possible the relationship between the children and their non-custodial parent.; *Schutz v. Schutz*, 581 So.2d 1290 (Fla., 1990) :

"[A] custodial parent has an affirmative obligation to encourage and nurture the relationship between the child and the noncustodial parent. . . This obligation may be met by encouraging the child to interact with the noncustodial parent, taking good faith measures to ensure that the child visit and otherwise have frequent and continuing contact with the noncustodial parent and refraining from doing anything likely to undermine the relationship naturally fostered by such interaction."

[104]. *Burnham v. Burnham*, 208 Neb. 498, 304 N.W.2d 58, (Neb. 1981).

[105]. *Id.*

[106]. New World Translation.

[107]. *Young People Ask: Should I Confess My Sin?*, AWAKE!, January 22, 1997, at 12.

[108]. *Are You Resisting the Spirit of the World?*, THE WATCHTOWER, April 4, 1994 at 16 : [E]ach year about 40,000 individuals are disfellowshipped from Jehovah's organization.

[109]. *You Must Be Holy Because I Am Holy*, THE WATCHTOWER, August 1, 1996 at 13: Even many who are disfellowshipped because of lack of repentance eventually come to their senses and are reestablished in the congregation.;

Let Marriage Be Honorable Among All, THE WATCHTOWER, February 15, 1993 at 13: On the positive side, a large proportion of those disfellowshipped eventually recognize their errors, resume a clean way of life, and in time are reinstated in the congregation.

[110]. *Let Marriage Be Honorable Among All*, THE WATCHTOWER, February 15, 1993 at 13 Although only a small proportion of Christians are affected, it has to be recognized that the majority of cases of disfellowshipping from the ranks of Jehovah's Witnesses for unrepentant conduct unbecoming a Christian are related to some form of sexual immorality

[111]. *Discipline That Yields Peaceable Fruit*, THE WATCHTOWER, April 15, 1988 at 28: Yet, since his [or her] being disfellowshipped does not end their blood ties or marriage relationship, normal family affections and dealings can continue.; *Child Custody-A Balanced* View, AWAKE!, December 8, 1997 at 11: The disfellowshipping process of the congregation only

alters the spiritual relationship between the individual and the Christian congregation. In fact, it severs the spiritual bonds. But the parent-child relationship remains intact. The custodial parent must respect the disfellowshipped parent's visitation rights.

[112]. *If A Relative is Disfellowshipped...*, THE WATCHTOWER, September 15, 1981, at 28. *Acting in Your Child's Best Interests*, AWAKE!, October 22, 1988, at 11.

[113]. *Child Custody – A Balanced View*, Awake!, December 8, 1997, at 11,12.

[114]. *Acting in Your Child's Best Interests*, AWAKE!, October 22, 1988, at 11. *Ephesians* 4:4-6 (Jerusalem Bible) states: "There is one Body, one Spirit, just as you were all called into one and the same hope when you were called. There is one Lord, one Faith, one baptism, and one God who is Father of all, over all, through all and within all."

[115]. *Acting in Your Child's Best Interests*, Awake!, October 22, 1988, at 12.

[116]. *Ephesians* 4:4-6 (Jerusalem Bible) states: "There is one Body, one Spirit, just as you were all called into one and the same hope when you were called. There is one Lord, one Faith, one baptism, and one God who is Father of all, over all, through all and within all."

[117]. *No Part of the World"-What Does It Mean?*, AWAKE!, September 8, 1997, at 13.

[118]. LEE F. GRUZEN, RAISING YOUR JEWISH/CHRISTIAN CHILD: WISE CHOICES FOR INTERFAITH PARENTS 36-41, 143-149 (1987).

[119]. STEVEN C. REUBEN, RAISING JEWISH CHILDREN IN A CONTEMPORARY WORLD 115 (1992).

[120]. *Felton v. Felton*, 418 N.E.2d 606, 607-08 (Mass. 1981) (citation and footnote omitted).

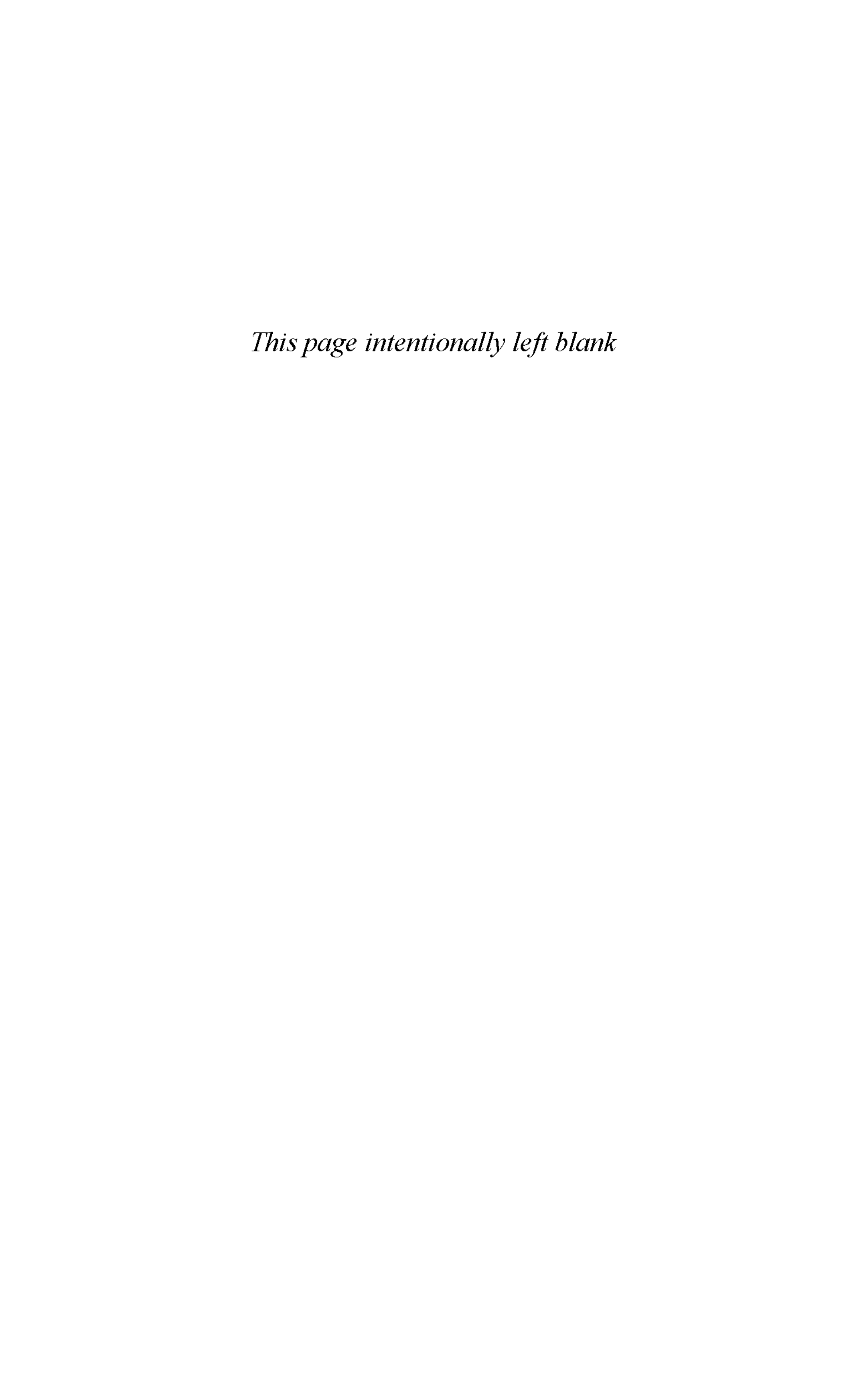
[121]. *Fatemi v. Fatemi*, 489 A.2d 798, 801 (Pa. Super. Ct. 1985) (citation omitted).

[122]. Decision and Order dated April 11, 1994, for *Smallhorne v. Smallhorne*, No. V-0881-83-A (Family Court, Green County, New York).

[123]. *Peterson v. Rogers, supra* note 56; *Pater v. Pater, supra* note 54.

[124]. BRYAN R. WILSON, THE SOCIAL DIMENSIONS OF SECTARIANISM 19 (1990).

[125]. Rodney Stark and Laurence R. Iannaconne, *Why the Jehovah's Witnesses Grow so Rapidly: A Theoretical Application*, JOURNAL OF CONTEMPORARY RELIGION, Vol. 12, No. 2, 1997.



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ÉCHANGE GÉNÉRALISÉ ET POLITIQUE DE PRESTIGE RELIGIEUX DANS L'ESPACE PUBLIC-MONDE [1]

Pauline Côté

À l'heure de la globalisation, l'évolution des pratiques et des croyances religieuses dans l'espace public-monde apparaît tiraillée par des mouvements d'échange généralisé et de contrôle public des croyances, conjoints par la présente analyse à des logiques contradictoires de pluralisation et d'authentification religieuse. La pluralisation religieuse est généralement considérée comme un trait caractéristique dominant, voire même exclusif, de la modernité. Dans sa dimension politique, elle renvoie à la constitution d'un espace public concurrentiel en religion[2]. L'espace public encourage la progression de la diversité religieuse - au sens d'une variété d'organisations, de formes et de contenus du croire - phénomène paradoxalement mis en évidence par la colonisation médiatique du 'monde vécu religieux'. Chacune à leur manière, les contributions à cet ouvrage constituent des motifs sur le thème de la pluralisation, en explorant ses possibilités et ses limites.

À cet égard, la complexité des changements en cours fait ressortir l'articulation de la logique de pluralisation avec une logique politique concomitante, celle de l'authentification religieuse[3]. Au rebours de la pluralisation, la logique d'authentification trouve son origine dans la constitution d'un secteur religieux. Ce secteur s'étend, en modernité tardive, du fait de l'interventionnisme social poussé des États, au plan interne, et, sur le plan externe, du fait de leur protectionnisme culturel en contexte de globalisation. Dans le présent chapitre, nous tenterons de circonscrire un aspect particulier de l'authentification religieuse, à savoir l'impulsion, par les autorités publiques, d'une «politique de prestige religieux». Cette dernière se joue autour de «mesures d'accréditation d'un croire conforme» (Hervieu-Léger, 2001:5) qui restreignent le mouvement des «chercheurs de dieux», et promeuvent du même coup, par effet

recherché ou effet pervers, des conceptions déterminées de l'authenticité religieuse.

À eux deux, ces mouvements cooccurrents contribuent à aviver les conflits et à rehausser l'actualité internationale de la question religieuse. Il sera donc ici question du second mouvement, marqué par une régulation publique prenant la forme de politiques de prestige religieux[4], lesquelles s'inscrivent dans une logique d'authentification. Ceci impliquera dans un premier temps que l'on resitue le jeu des deux logiques au coeur même de la modernité occidentale, ce qui nous permettra de relativiser l'impact des processus de pluralisation. Quelques exemples de politique de prestige religieux seront ensuite illustrés brièvement en rapport avec la controverse sur les sectes en Europe.

1. La politique de prestige religieux

La notion d'une politique de prestige n'est pas nouvelle. Elle tire essentiellement son origine de la distinction wébérienne des catégories sociales entre ordre, classe et statut. Les groupements de statut possèdent en commun la revendication d'une mesure de prestige social au nom de valeurs et de normes qu'ils incarneraient de manière exemplaire. Les groupements religieux constituent, pour plusieurs, les groupements de statut par excellence. Dans une étude classique sur le mouvement de tempérance américain, au début des années 1960, Joseph Gusfield utilisait le terme «status politics» (1963:173). Ce terme sera traduit par politique de prestige. Il désigne ces conflits politiques marqués par une lutte pour la distribution du prestige social entre groupes de statut concurrents. Les conflits acquièrent de ce fait une forte dimension expressive. Brandmeyer et Denisoff (1969:8-10) reprendront le concept pour y inclure les dimensions autant expressives qu'instrumentales de tels conflits, intégrant ainsi la recherche active de reconnaissance publique de 'valeurs' et de 'styles de vie' particuliers au répertoire de l'action politique contemporaine. Plus tard, d'autres auteurs souligneront le lien entre la politique du style de vie et l'interventionnisme social poussé de l'État, alimentant une dynamique de redistribution publique du prestige social (Turner, 1988 ; Starr, 1992).

Cette dynamique nous a déjà paru susceptible d'éclairer le traitement judiciaire de la question religieuse au Canada, spécialement la hiérarchisation explicite et implicite des groupements (Côté, 1999a). De la même manière, elle pourrait aider, pensons-nous, à comprendre la controverse médiatique, politique et diplomatique entourant le phénomène

sectaire en Europe. Nous entendons montrer qu'une sorte de politique de prestige religieux s'y joue de manière privilégiée dans un rapport triangulaire où se définissent simultanément l'autorité publique, la religion et la secte. La dernière apparaît telle une figure emblématique de l'altérité religieuse. La **secte**, étrangère, exotique, toujours mystérieuse, révèle en négatif le portrait de la **religion**, familière, traditionnelle, nationale. Exclue, en probation, la secte pourrait éventuellement accéder au plus haut statut, celui de religion «connue» ou «re-connue» pourvu que, dans un développement contemporain inédit, elle apparaisse **essentiellement : en finalité et en valeur,** compatible avec l'exercice de l'autorité publique démocratique.

2. Authentification religieuse en modernité

Ce rapport triangulaire met au jour, en le transformant, un secteur religieux qui s'est constitué au coeur même de la modernité occidentale par la gestion publique de l'hétérogénéité religieuse. Il révèle la réciprocité de l'échange entre le religieux et le politique, réciprocité que la modernité a peu à peu occultée. La légitimation des autorités publiques par la religion, terme le plus souvent privilégié de cet échange[5], **porte en contrepartie le renforcement étatique de la plausibilité religieuse.** La plupart des religions que nous avons coutume d'appeler les «grandes religions universelles» sont issues soit de la symbiose des institutions politiques et religieuses, de nature impériale ou monarchique, soit de la fusion de la religion et de la nation dans l'État moderne. L'une comme l'autre ont assuré les fondements matériels, sinon le renforcement symbolique, de «l'authenticité religieuse». En effet, l'histoire universelle des «grandes religions» contemporaines recoupe en partie celle de la construction et du maintien, par les autorités publiques, d'une notion d'authenticité religieuse, utile à la cohésion idéologique et culturelle sur de vastes ensembles humains (Herbrechtsmeier, 1996:4). Les États ou les puissances publiques ont oeuvré à l'établissement d'une religion «authentique» en limitant le nombre des «compétiteurs» religieux - pensons aux croisades internes et externes, aux guerres saintes, aux guerres de religion, aux colonisations - en forçant l'adhésion des populations, notamment en imposant des serments d'allégeance et des qualifications religieuses pour l'exercice de charges publiques, et en dotant matériellement, financièrement, certaines entreprises religieuses ainsi promues au rang de traditions vraies.

Ainsi que l'illustrent les diverses théories de la sécularisation, la modernité marginalise la religion en tant que phénomène social total. L'État incorpore les appareils religieux dans la sphère publique, expression suprême de l'ensemble social. Les entreprises religieuses sont assignées à un secteur qu'elles peuvent légitimement occuper[6]. De manière paradoxale, toutefois, ce réaménagement s'effectue en fonction de critères implicites ou explicites d'authentification religieuse.

Deux grandes figures de la sectorialisation religieuse pourraient être distinguées, soit la séparation et l'association. Dans le cas des régimes de séparation, variantes américaine et française, les religions opèrent dans le domaine privé et la société civile. Par ailleurs, en régime d'association (l'Europe du Nord, la Grande-Bretagne, le Canada, la Belgique, l'Allemagne[7]), les religions opèrent dans les deux premiers ainsi que dans une portion du secteur public. Théoriquement, la puissance publique ne manifeste aucune préférence religieuse particulière dans les cas de séparation, et l'expression religieuse «authentique» est celle de la libre conscience individuelle. Dans les cas d'association, les confessions religieuses sont authentifiées de diverses manières : religion nationale, religion du peuple, religion traditionnelle, religion établie. Indépendamment des variations de régime, toutefois, les critères d'octroi des privilèges publics, notamment les privilèges fiscaux, demeurent basés sur des acceptions traditionnelles de la religion[8]. À cet égard, les grands principes de la laïcité, de la séparation et de la tolérance traduisent un «dimensionnement» emphatique de l'espace religieux, sans pour autant être neutres envers les religions dans leur application[9].

3. Espace public-monde et régulation paradoxale

Ce «dimensionnement» cèdera sous la poussée de deux avatars de la modernité : la globalisation, d'une part, l'interventionnisme social accru des États, d'autre part. Conjuguées, ces forces révèlent le caractère paradoxal et la complexité de la régulation publique.

Le caractère paradoxal, d'abord, en considération de l'impact de mesures publiques qui pluralisent[10] et authentifient, encouragent et restreignent tout à la fois la religion. De façon massive, la sécularisation pluralise l'univers religieux. Elle force la coexistence pacifique des entreprises, elle dé-monopolise la religion (Berger et Luckmann, 1967). L'octroi des libertés fondamentales neutralise la coercition religieuse et favorise l'échange généralisé. Avec l'État-providence, la diminution des charges publiques dans les domaines de l'éducation et de la santé travaille

aussi la religion dans le même sens, quoique certaines entreprises religieuses demeurent favorisées, le cas le plus probant étant celui de l'Allemagne (Messner, 1998 ; Law Library, CSCE, 2000).

La complexité, ensuite, en considération des options diverses de régulation du religieux prises par les autorités publiques aux niveaux national, transnational et international. Au niveau national, la gestion publique de grandes émotions collectives relayées, voire stimulées par les media (funérailles nationales, mariages princiers, commémorations d'événements dramatiques tels écrasements d'avion, inondations, meurtres en série) n'est pas exempte de maîtres symboles religieux et confère à certaines traditions religieuses le statut de religion nationale ou de religion de la majorité. Ces religions habituellement délaissées des populations, du moins pour ce qui est d'une pratique cultuelle régulière ou sporadique, recouvrent une certaine plausibilité grâce à leur étroite association avec les pouvoirs publics. En même temps, ce statut privilégié peut être renforcé, ou diminué, au niveau mondial. La poursuite de la guerre, la négociation et la ratification de traités internationaux, les amendements constitutionnels constituent encore à l'occasion des manifestations extraordinaires de préférences religieuses (Robbins et Robertson, 1989; Guinn et al., 1999). Dans l'espace public-monde où circulent, s'élaborent, se comparent et se confrontent potentiellement au plus haut niveau ces notions, les États contemporains peuvent chercher à faire figure de gardiens de la Tradition (religieuse et culturelle), lors même qu'apparaît une politique internationale, américaine, de la liberté religieuse en contexte de globalisation de la répression[11].

L'État-providence, toutefois, se situe à l'interface de dynamiques religieuses transnationales impulsées par la globalisation[12]. Il accroît la régulation publique du social alors que s'intensifie la diversification des activités religieuses et que, par conséquent, croissent potentiellement les tensions et les sources de conflit entre autorités publiques et autorités religieuses. Réguler les entreprises religieuses, dans ce contexte, n'est pas différent de la gestion d'autres facteurs de risque sociaux, locaux et globaux, tels que la maladie, la pollution, la consommation, la fraude, l'abus, la violence (Robbins et Beckford, 1993:211). Qui plus est, les administrations publiques providentielles développent un savoir social expert, lequel fonde les politiques et autres interventions publiques sur des axiomes sociaux (Rueschmeyer et Skocpol, 1996, Fischer et Forester, 1993), de nouvelles valeurs à l'aune desquelles seront jugées les valeurs religieuses. C'est ainsi qu'en fonction de leurs propres intérêts de régulation, bien que souvent en réponse à des controverses sociales

fortement médiatisées, les autorités publiques pourront se lancer dans une politique de prestige religieux et se trouver à promouvoir simultanément, par effet recherché ou pervers, des conceptions déterminées de l'authenticité religieuse.

4. L'Europe, les sectes et la politique de prestige religieux

À quoi peut correspondre, empiriquement, une logique d'authentification du croire? Quels sont les principaux points d'appui d'une politique de prestige religieux? L'Europe occidentale constitue, à l'heure actuelle, un terrain fertile pour l'analyse de ces dynamiques. Dans la foulée des suicides-homicides reliés à l'Ordre du Temple Solaire et à Heaven's Gate, pas moins d'une douzaine de rapports publics, parlementaires ou gouvernementaux, ont été consacrés à la question des sectes entre 1996 et 2000[13]. Certains, axés sur le phénomène en général, sont utiles à l'examen d'un premier indicateur privilégié de la sectorialisation, soit les « images publiques » (Jobert et Muller, 1987: 47s.) C'est le cas particulièrement d'un des deux rapports de l'Assemblée nationale française (1996)[14] et de celui de la Chambre des représentants de Belgique (1997). Tous deux sont riches en perceptions publiques contrastées de la religion et de la secte, et de tentatives de définition en droit positif. D'autres, telles les deux versions de rapports d'enquête produites par le Bundestag sur les 'pseudo-sectes' (1996, 1998), accusent le contraste entre le religieux - normal- et la secte - pathologique - en insistant, comme les premiers, sur la nécessité de contrôler des formes difficiles à saisir[15]. Tous ces rapports sont également utiles à la mesure d'un second indicateur privilégié de la sectorialisation, soit la créativité administrative, par la mise en place d'agences spécialisées de régulation et de contrôle religieux[16]. En France, entre autres, l'activisme public a résulté dans la promulgation d'une mesure restrictive, la *Loi tendant à renforcer la prévention et la répression à l'encontre des groupements à caractère sectaire*. La loi a été approuvée unanimement par l'Assemblée nationale française, mais réservée pour «réflexion complémentaire» en attendant une plus ou moins probable sanction définitive par le Sénat.

Dans un premier temps, nous esquisserons succintement les principaux paramètres de la sectorialisation du religieux dans ces pays, avant de montrer brièvement de quelle manière la controverse sectaire bouscule les équilibres établis et déclenche une seconde vague de régulation. Ainsi qu'il a été suggéré plus haut, la première vague de sectorialisation pourrait être appréhendée comme celle du «dimensionnement» emphatique de l'espace

religieux. Cette vague aurait frappé à divers moments les pays européens depuis un siècle[17] - pensons à la grande querelle de la séparation de l'Église et de l'État qui secoue ces pays au long du XIXe - avec une stabilisation après la deuxième guerre mondiale (pour l'Italie, l'Allemagne, mais également dans une certaine mesure, la France). En France, par exemple, les principaux sédiments historiques seraient la confessionnalisation du religieux, liée au régime de reconnaissance napoléonien, toujours en vigueur avec quelques modifications en droit local (Alsace-Moselle), auquel vient se superposer le droit général, celui d'une séparation dont les dispositifs légaux, du moins en ce qui concerne les privilèges de l'association religieuse - communautés, congrégations-, favorisent le catholicisme (Woehrling, 1998). Compte tenu de la primauté de l'État, toujours fortement marquée en France, la sectorialisation s'est concrétisée dans ce que Danièle Hervieu-Léger a appelé le « modèle confessionnel du pluralisme religieux» (2001:5) relevant de l'administration publique. Ce serait cette sorte d'endiguement confessionnel du religieux par l'État républicain qui est en crise, du fait de la perte de contrôle et du dépassement des institutions religieuses traditionnelles comme entreprises de régulation des croyances.

En Belgique, par comparaison, la première vague de sectorialisation du religieux a laissé un système explicite de reconnaissance publique des religions - six religions reconnues en raison de leur « utilité sociale » à l'époque contemporaine - (Martin, 1994 ; Chambre des Représentants, 1997:284), mais en même temps, un système plus fragmenté et plus ouvert que le système français, en apparence, quant aux modalités de la poursuite d'activités associatives religieuses, ne serait-ce qu'en considération de la capacité juridique. Les groupes religieux peuvent opérer en Belgique comme associations sans but lucratif. Entre ce premier niveau de reconnaissance publique belge et le statut supérieur de religion reconnue, la distance semble moins grande que dans le système français à deux niveaux : soit entre les associations gouvernées par la loi de 1901 et celles obtenant le statut d'association cultuelle de par la loi de 1905.

L'Allemagne a instauré, avec la Loi fondamentale de 1949, un régime d'association publique encore plus étroit que le régime belge avec certaines organisations religieuses. Le secteur religieux y est plus découpé. Là, comme en Autriche, existe une sorte de dispositif «gradué» de reconnaissance des collectivités religieuses conférant des droits et privilèges distincts. Les Églises (évangéliques, catholique) bénéficient du plus haut statut : celui de corporation de droit public. En découlent plusieurs privilèges : l'impôt d'Église, des subventions étatiques aux

facultés de théologie, etc. En Allemagne comme en Belgique, mais dans une plus forte mesure, les Églises sont associées au secteur public dans les domaines de l'éducation et des services sociaux. À l'autre bout de l'échelle, les nouvelles religions ont comme option de postuler à un premier statut, celui d'association civile ou de droit civil, accordé par les Lander. Pour opérer effectivement, elles devront ensuite s'incorporer en tant qu'associations charitables et paraître au registre public. Leurs Actes d'association seront examinés par une agence gouvernementale, puis par les tribunaux, afin de déterminer que les buts proclamés et les activités ne violent pas les lois et ne sapent pas les principes de la Loi fondamentale. Enfin, le statut de corporation de droit public implique, comme on le verra plus loin, qu'il existe une définition constitutionnelle de la religion. (Hollerbach, 1998; Brown, 1999; Thériault, 1998; Ouédraogo, 1994, Law Library, CSCE, 2000)[18].

Ainsi se présente, à grands traits, le contexte dans lequel la controverse sectaire va déclencher une seconde vague de sectorialisation, laquelle stimule une politique de prestige religieux. Deux voies semblent se dessiner : la voie administrative et la voie législative, c'est-à-dire l'instauration ou le développement de critères de reconnaissance et d'accréditation, d'une part, la définition positive de la religion et de la secte, d'autre part. L'élaboration du référentiel public est poussée de façon inédite par les rapports belges et français. Dans le rapport belge, pour la première fois, se trouve une définition autorisée de la secte qui balise large, bien au-delà du secteur religieux traditionnel : «On pourrait alors définir l'organisation sectaire nuisible comme un groupement à vocation philosophique ou religieuse, ou se prétendant tel, qui, dans son organisation ou sa pratique, se livre à des activités • illégales dommageables, nuit aux individus ou à la société ou porte atteinte à la dignité humaine» (Chambre des Représentants de Belgique, 1997:100). Si le religieux a été dompté parce que déjà sectorialisé, l'altérité religieuse, la secte, serait, elle, redevenue un phénomène social total. Pour ces parlementaires, il est clair qu'il existe un «label religieux» dont on ne doit pas abuser (*Id*, 98). Afin de guider le législateur ou l'exécutant éventuel, le rapport belge présente aussi pour la première fois une approche «intégrée» du phénomème, incluant donc définition et critères de dangerosité sociale - repris du premier rapport parlementaire français et permettant de qualifier de nuisible une organisation sectaire. Plusieurs notions floues sont utilisées : «la déstabilisation mentale ; le caractère exorbitant des exigences financières, la rupture induite avec l'environnement d'origine ; les atteintes à l'intégrité physique ; l'embrigadement des enfants ; le

discours plus ou moins anti-social ; les troubles à l'ordre public ; l'importance des démêlés judiciaires ; l'éventuel détournement des circuits économiques traditionnels ; les tentatives d'infiltration des pouvoirs publics» (Assemblée nationale, 1996:8-9).

Ces rapports ont été très fortement critiqués, mais des recommandations importantes ayant trait au renforcement du contrôle du secteur religieux ont été suivies en France, en Belgique et en Allemagne[19]. Deux circulaires contre les sectes du Ministre de la Justice français, direction des affaires criminelles et des grâces, ont été publiées en 1996 et 1998 suite au décret instituant une agence interministérielle spécialisée, l'Observatoire sur les sectes, à laquelle succède, en 1998, une Mission interministérielle de lutte contre les sectes rattachée au Premier ministre. Les circulaires Guigou, distribuées aux procureurs, magistrats, directeurs régionaux de la protection judiciaire de la jeunesse et directeurs régionaux de l'administration pénitenciaire, mobilisent idéalement «tous les services déconcentrés de l'administration de l'État» dans une « lutte contre les dérives sectaires» au moyen d'une «pleine utilisation du dispositif juridique existant». Vigilance, prévention, sensibilisation contre le sectarisme sont les mots-clés du vocabulaire administratif. L'autorité publique tente de réduire l'incertitude. Elle quadrille le secteur et se choisit des «partenaires» sociaux. Les circulaires désignent nommément l'Union nationale des associations pour la défense des familles et de l'individu (UNADFI) et le Centre de documentation, d'éducation et d'action contre les manipulations mentales (CCCM), associations de lutte anti-sectes, reconnues «d'utilité publique» en raison de la valeur de leurs informations pour l'autorité judiciaire. Des «correspondants-sectes» sont désignés, des réunions de coordination instaurées, etc.[20].

Le premier rapport annuel de la Mission interministérielle de lutte contre les sectes est révélateur des moyens administratifs mis ou souhaités à la disposition de son président, Alain Vivien, ancien ministre socialiste et auteur, quinze ans auparavant, d'un premier rapport au Premier ministre sur les sectes en France (Vivien, 1985). Le champ d'intervention est immense, peut-on y lire, et du retard a été pris «dans le domaine international comme dans le cadre européen, en matière de prévention contre le sectarisme» (Mission, 2000:3). En ce qui a trait à l'interne, néammoins, le rapport souligne d'excellentes «relations opérationnelles» avec les ministères de l'Intérieur, de l'Éducation nationale, de la Jeunesse et des sports, de la Justice, des Affaires étrangères, de l'Emploi et de la solidarité. Cette action publique vise également une globalisation du phénomène sectaire : un conseiller diplomatique s'est joint à la Mission,

puisque la réception de «nombreux ministres étrangers ainsi que des délégations de parlementaires et de juristes qui sollicitent l'expertise française» grugeait auparavant près du tiers du temps du président et du secrétaire général (Mission, 2000:12).

Par ailleurs, suivant les recommandations du rapport de la Chambre des représentants de Belgique, le Parlement s'est aussi engagé dans une nouvelle sectorialisation du religieux en établissant par loi, en juin 1998, un Centre d'information et d'avis sur les organisations sectaires nuisibles, à mi-chemin, semble-t-il, entre le «*think tank*» et l'agence de régulation[21]. Il est doté par le ministère de la Justice, pourvu d'une «cellule administrative de coordination» du genre de celle de la Mission française qui, à partir de décembre 1998, par loi du Parlement , inclut les forces de police et de sécurité. Le Centre est redevable au Conseil des ministres, aux Chambres législatives et aux Conseils et Gouvernements des Régions et des Communautés (Fautré, 1999:4). Son mandat précise qu'il formule, «soit d'initiative, soit à la demande de toute autorité publique, des avis et des recommandations sur le phénomène des organisations sectaires nuisibles et en particulier sur la politique en matière de lutte contre ces organisations» (*Id*: 5).

Toute cette activité impulse, volontairement ou involontairement, une nouvelle politique de prestige religieux. Ainsi qu'il a été précisé plus haut, la première sectorialisation du religieux avait produit des religions publiquement[22] reconnues : établies, traditionnelles, nationales, populaires. Il appert qu'un nouveau seuil soit franchi avec la controverse sectaire. Le référentiel public produit dans son sillage explicite, pour la première fois, ou laisse envisager autrement que via les références modernes à l'ordre public, que la religion constitue un label et une entreprise sociale accrédités et agréés par la puissance publique. La production discursive autour du phénomène sectaire fournit l'occasion d'une reconfiguration symbolique du secteur où se définissent simultanément l'autorité publique, la religion et la secte sur les axes légitimateurs et fédérateurs par excellence que sont la démocratie et des droits de l'homme. Le rapport de la MILS, de même que le préambule de la loi française de juin 2000 et le rapport belge, sont exemplaires à cet égard : «La préoccupation des pouvoirs publics se porte donc [...] sur des groupes, se disant le plus souvent religieux, et dont le fonctionnement serait un défi aux droits de l'homme, aux libertés fondamentales, et à l'Ordre public» (MILS, 2000:21; Chambre, 1997:89, 95)[23]. La secte devient donc l'altérité démocratique et libérale par excellence[24]. C'est précisément l'assimilation de la secte à la «manipulation mentale», dans presque tous les rapports

publics européens, qui représente l'artifice idéologique majeur du processus d'illégitimation religieuse dont elle fait l'objet[25]. Plus encore que l'altérité religieuse, c'est la figure de la pathologie sociale qu'incarne la secte. Sa définition devient l'instrument de promotion d'une notion publique de **normalité religieuse** d'emblée située dans le cadre démocratique et libéral. Ainsi, pour la Chambre des Représentants de Belgique, la religion ou la secte dignes de reconnaissance sont celles faisant un «usage normal de la liberté religieuse et d'association garantie» (1997:99). À terme, les critères d'authentification religieuse s'autonomisent : ils ne réfèrent plus à des attributs de construits d'action concrets : religion ou secte, mais renvoient à la régulation de l'autorité publique qui les institue[26].

Que ce soit dans l'implicite ou l'explicite du discours public, l'intervention dans le domaine religieux porte une charge d'authentification et nourrit une politique de prestige religieux. Au plan symbolique, les religions déjà reconnues deviennent des religions normales, correctes, jugées compatibles avec le bien commun selon des critères d'ordre politique ou idéologique. Une nouvelle tolérance s'instaure en fonction d'une adéquation établie entre les croyances, les pratiques religieuses et les référentiels séculiers des politiques publiques (Beckford, 2001, cet ouvrage). En deçà de la normalité il y aurait la religion ou la secte autre, celle au doux radicalisme éthique, le plus souvent connue par son rapprochement à une grande tradition religieuse. Puis dans l'anormalité, le travestissement, la criminalité et l'abus, il y a les sectes : néfastes, nuisibles. La liste en est dressée officiellement dans les rapports français et belges.

S'il y a tout lieu de critiquer d'un point de vue scientifique l'amateurisme de telles listes, on peut aussi souligner l'impact concret de telles entreprises de classification. D'une part, elles sont susceptibles d'engager plus avant les autorités publiques à tous les niveaux dans une futile et incongrue logique d'authentification religieuse . D'autre part, elles stimulent une politique de prestige religieux dont il deviendra fort difficile de contrôler les développements. Comment contrer les demandes de reconnaissance et de privilèges religieux de tous ordres lors même qu'on les mandate? Comment éviter les représentations et le lobbying religieux à tous les niveaux lors même qu'il devient pratiquement impossible d'extérioriser sa religion sans obtenir la reconnaissance publique? Comment justifier ses positions sur le plan international sans donner dans le protectionnisme culturel favorisant certaines entreprises et stimulant, par le fait même, leurs revendications?

La politique de prestige religieux, en contexte européen, signifierait moins un changement de régime, de pluraliste à autoritaire, que de pénibles ajustements - pour certains groupes religieux minoritaires- des modèles de gestion pluraliste en place jusque-là[27] . De même, les secousses de la controverse sectaire en Europe sont révélatrices d'un secteur d'entreprises religieuses reconnues, sinon traditionnelles, dont les cloisons plus ou moins rigides s'érigent au carrefour des prérogatives de l'État Nation et de l'État-providence confrontés à la globalisation.

La politique de prestige religieux se déploie, par ailleurs, dans d'autres contextes, à tel point qu'il ne saurait y avoir une globalisation religieuse significative aujourd'hui sans reconnaissance publique. À cet égard, l'expansion internationale de la Société de la Tour de Garde (Témoins de Jéhovah) représente un cas de figure fort intéressant. Cette minorité religieuse parmi les plus 'globalisées' de la planète - davantage encore que les Mormons - doit s'adapter au contexte de régulation de chaque État national. C'est notamment le cas en Europe de l'Est, où la Société revendique simultanément les libertés publiques et un statut religieux officiel récusé par sa propre théologie.

En fin de compte, la dynamisation de la politique de prestige religieux en Europe pourrait entraîner, par effet pervers, la diffusion de pratiques de régulation similaires en Europe de l'Est ou en Russie, où elles se combinent à l'autoritarisme politique, à des établissements religieux partiels ou à des religions hégémoniques. Là encore, sans mentionner les mouvements de promulgation de la *sharia* en Afrique et en Asie, les pouvoirs publics peuvent oeuvrer à l'authentification religieuse pour motif de cohésion idéologique ou culturelle. Comme hier, la « religion publique» en ce sens inhibe le mouvement des chercheurs de dieux et restreint l'espace public.

NOTES

[1]. Une version antérieure abrégée de ce texte a été publiée dans le journal *Le Devoir*, 1er-2 juillet 2000, E-2. Nos remerciements vont à notre collègue Daniel Mercure pour ses commentaires et suggestions.

[2]. Cet espace public émerge de par l'instauration des libertés publiques, lesquelles limitent la capacité directe de commandement des organisations religieuses et les placent en concurrence ouverte avec les autres entreprises religieuses, culturelles, philosophiques. L'État moderne représente l'instance de mise en coexistence pacifique de différents groupes ethniques, religieux et idéologiques, par conséquent, le gestionnaire au plus haut niveau de la

pluralisation, ici religieuse. Il encadre les entreprises religieuses d'une société civile relativement autonome. Côté, 2001a. Au sujet des multiples dimensions et facteurs impliqués dans la constitution d'un espace public en religion, particulièrement en Europe, consulter le numéro du printemps 2001 de la revue *Nova Religio*, éditée par Thomas Robbins.

[3]. La logique d'authentification réfère à la constitution d'un secteur religieux, à des modalités d'organisation des forces religieuses dans un secteur balisé selon des critères implicites ou explicites de délimitation d'une religion vraie. Côté, 2001a. À l'extrême, la logique d'authentification produit des secteurs publics et religieux coextensifs et contrôlés par des fonctionnaires religieux. La 'cléricature' - dictature d'un clergé - serait l'aboutissement de la logique d'authentification et le point de basculement dans un ordre politique traditionnel, dont le pouvoir des talibans pourrait fournir l'exemple.

[4]. Qualifiée ailleurs d'«*...ascribed status politics [referring to a] model of authoritatively arranged and endorsed «social harmony» between various social groupings*», Côté, 1999: 277, et de «*status politics of religion*» in Côté et Richardson, 2001.

[5]. Jusqu'à en faire dans certains cas un critère distinctif d'avec la secte. Cf. l'oeuvre de Troeltsch in Froidevaux, 1999.

[6]. Du coup, la puissance publique procède à la «sectorialisation» pratique et symbolique de l'entreprise religieuse, ce à quoi nous avons déjà fait référence en tant que spécialisation et hiérarchisation de la religion par l'État, in Côté, 1999b:59-61. Au sujet de la sectorialisation en général et du maniement du «référentiel global» par les autorités publiques voir Jobert et Muller, 1987:53.

[7]. On trouvera une analyse plus poussée de ces cas in Côté, 2001b et 2001a.

[8]. Cf l'ensemble du numéro 101 de la revue *Archives de sciences sociales des religions,* 1998, sous la direction de Francis Messner, aussi l'étude détaillée préparée pour la Commission pour la Sécurité et la Coopération en Europe, CSCE, 2000.

[9]. *Ibid.*

[10]. Les formidables progrès des transports et des communications, l'accroissement des échanges et le brassage des populations ont un effet important en ce qui a trait à la pluralisation de l'univers religieux. Sur le plan culturel, les échanges s'intensifient en même temps que resurgissent des identités culturelles, religieuses en réaction à la globalisation. Cf Robertson, 1992.

[11]. Ce à quoi jouent depuis plusieurs années sur le plan international des pays comme l'Iran, l'Afghanistan, le Pakistan, l'Arabie saoudite etc. Voir Kepel, 2000; Ramet, 1998. Quant à la politique américaine, nous faisons référence à l'adoption en 1998 de *l'International Religious Freedom Act* et aux mécanismes de surveillance et de publicisation qu'elle mandate.

[12]. Ces dynamiques renvoient à des phénomènes divers. Dans une acception large, on peut comprendre la notion de mouvement religieux au sens de Beckford, à savoir: «*...a formal or*

informal mobilization of people, material resources, ideas, and feelings in pursuit of objectives dictated by concerns deemed ultimately significant but largely outside the framework of conventional religious activities», 2000:169, en référence à l'influence culturelle du pentecôtisme, qu'il donne en exemple. Par ailleurs, Beckford souligne à juste titre que certains de ces mouvements (ex. pentecôtisme, jéhovisme) ont précédé l'actuelle globalisation, même y ont contribué. Toutefois, comprises également parmi les dynamiques religieuses transnationales impulsées par la globalisation se trouvent des mobilisations religieuses et politiques plus rigides (Zald et McCartey, 1998:26) nourrissant l'islamisme, par exemple, et quelques réseaux formés par des «nouveaux mouvements religieux».

[13]. Parmi les sociologues des religions qui ont analysé cette production discursive publique, signalons un collectif sous la direction de Massimo Introvigne et de J. Gordon Melton, 1996; Liliane Voyé,1999. L'étude la plus complète à ce jour, prenant en compte l'ensemble des rapports, est celle de James T. Richardson et de Massimo Introvigne, 2001. En dehors des références aux rapports français et belge, nos analyses s'inspirent largement de leurs conclusions.

[14]. Un autre rapport, en 1999, a été consacré à la situation financière, patrimoniale et fiscale des sectes. Cf Richardson et Introvigne, *op.cit.*

[15]. Les autorités suisses ont également été actives. Le canton de Genève a produit deux rapport axés sur la manipulation psychologique ('lavage de cerveau', 1997 et 1999), le niveau fédéral, deux (1998 et 1999), dont un sur la Scientologie. Le Conseil de l'Europe s'est aussi commis en 1999. Richardson et Introvigne, *op.cit.*

[16]. Il sera question plus loin de quelques-unes de ces agences.

[17]. Le phénomène que nous décrivons pour ce qui est de la régulation du religieux a été analysé pour l'ensemble du social par certains politistes en tant que corporatisme, admettant une distinction entre corporatisme étatique et corporatisme social, ou encore corporatisme fort, moyen, faible, d'une part, et pluralisme, d'autre part. Si on voulait retravailler l'échelle de Lehmbruch, présentée par Jobert et Muller, (1987:169) en rapport avec la régulation publique du religieux, on pourrait de façon provisoire ranger l'Autriche et l'Allemagne sous un corporatisme fort, la Belgique, la Suisse et la France sous un corporatisme moyen, la Grande-Bretagne et l'Italie sous un corporatisme faible et le Canada, les États-Unis et l'Australie sous le pluralisme.

[18]. Par contraste, dans les régimes pluralistes de régulation, par exemple les États-Unis, le Canada, les Pays-Bas, la question de la reconnaissance religieuse se règle en grande partie par l'octroi d'un statut d'organisation charitable aux fins fiscales.

[19]. En Allemagne, dont nous ne traiterons pas en détail faute d'espace, la Bavière a notamment adopté des dispositions législatives à l'effet d'interdire l'accès aux emplois dans le secteur public aux membres de l'Église de Scientologie. L'on trouvera, par ailleurs, référence aux critères détaillés de la reconnaissance du religieux dans le jugement analysé par Scott Kent Brown (1999), jugement ayant eu pour effet d'interdire la reconnaissance de

l'organisation de la Tour de Garde (Témoins de Jéhovah) en tant que corporation de droit public dans le Land de Berlin. Voir également Besier et Besier, 2001. Ce jugement vient d'être renversé par la Cour constitutionnelle fédérale de Karslruhe, qui renvoie l'affaire au tribunal administratif en indiquant que les groupes religieux ne peuvent être jugés pour leurs croyances mais pour leurs actes.

[20]. Circulaire, 1998, sous l'intitulé 1. Un échange d'informations entre l'autorité judiciaire et les associations de lutte contre le phénomène sectaire.

[21]. Il est composé de représentants gouvernementaux, d'universitaires, de juristes et de «partenaires» du secteur privé.

[22]. En transformant leurs modes de publicité (Casanova, 1994), c'est-à-dire en les soumettant aux libertés publiques.

[23]. Nous avons suggéré par ailleurs que c'étaient là les principales composantes d'un «ethos civique» très contemporain. Cf. Côté, 1999b:62-63. Également, la nouvelle ontologie publique n'est pas sans rappeler le réalisme kelsénien. L'autorité publique est-elle, par essence, démocratique et libérale ?

[24]. Témoigne de ce phénomène le fait que soit les minorités religieuses actives n'ont pu être entendues devant les diverses commissions parlementaires, soit leurs représentations ont été biaisées par un parti-pris affirmé pour les ex-adeptes militants des sectes.

[25]. Ainsi que le font bien ressortir de leur étude Richardson et Introvigne, 2001: 4 et 21, la religion est devenue une sorte d'appellation contrôlée et le refus de nommer religieuse une entreprise représente une manière éprouvée de discriminer contre les nouvelles minorités.

[26]. Le rapport de la MISSION interministérielle de lutte contre les sectes l'illustre en ces termes : «Les résolutions parlementaires instituant les commissions d'enquête de 1995 et 1999 sont des actes qui n'ont pas une valeur normative générale. Mais ces actes ont institué des entités conformes aux dispositions régissant le Parlement. Ces entités ont eu à se pencher sur un objet, les «sectes». Ce qu'elles en disent est une indication donnée aux pouvoirs publics.

On peut donc en déduire une existence de l'objet étudié, et donc une réalité du phénomène. Ceci se retrouve en Belgique, en Suisse, en Allemagne, en Autriche, et dans d'autres pays, sous des formes variées.

La notion de secte existe donc, puisque les parlements de ces pays ont procédé à des investigations sur ces organismes» p.21.

[27]. Ainsi que le démontre le cas italien, bien analysé par Ferrari, 1998, un régime de reconnaissance publique ne signifie pas nécessairement une restriction de la diversité religieuse.

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